BEFORE THE RAILWAY TRANSPORT COMMITTEE
OF THE CANADIAN TRANSPORT COMMISSION

INQUIRY INTO THE EFFECTS OF U.S. RAIL DEREGULATION

EVIDENCE OF E.M. LUDWICK & ASSOCIATES INC.
ON BEHALF OF THE
DIRECTOR OF INVESTIGATION AND RESEARCH
COMBINES INVESTIGATION ACT

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"The views presented in this paper are those of the author and do not necessarily reflect the views of or positions of the Department of CCAC
Les points de vues exprimés dans cette étude sont ceux de l'auteur et il ne reflètent pas nécessairement la position du Ministère."

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We are grateful to a number of persons for sharing their thoughts on various issues and for making helpful comments on various drafts of the questionnaire and alternative survey procedures. In particular, the contributions of several highly-informed traffic managers and representatives of the trucking, freight forwarding, and steamship line industries as well as officials from several provincial and other federal government agencies are also appreciated.

Very importantly, the cooperation and assistance of both CP Rail and CN Rail in providing us with comprehensive lists of their customers allowed us to select the sample from the best source available. Comments on the questionnaire from officials in both railways also assisted in broadening the comprehensiveness of some of the questions. We do not wish to imply that the final questionnaire had the individual seal of approval of each of the above, but they all contributed to our successful execution of this project in one way or another.

We express our sincerest appreciation to some 300 users of railway services across Canada who took the time to go over the questionnaire with an interviewer and to freely express their opinions on these important matters on a confidential basis. Truly the views expressed in this report are those of the survey respondents alone. Finally, we express our gratitude to our staff and associates (M. Bukal, W. Klassen, T. Ludwick, and E. Silvert) for their contributions to the execution of this project.

E.M. LUDWICK & ASSOCIATES INC.

EXECUTIVE SUMMARY

In 1983, the Bureau of Competition Policy of the Department of Consumer and Corporate Affairs commissioned a survey of firms using railway transportation services aimed at learning their views on rail competition in Canada and the U.S.A. This survey was conducted in the fall of 1983. Respondents were asked to evaluate nine possible options relating to different rate-making scenarios among Canadian railways including modifying section 279 of the Railway Act and section 32(2) of the Transport Act.

Three hundred randomly selected large and small shippers, consignees, truckers, freight forwarders and steamship lines involved in domestic and transborder trade located throughout Canada participated. The survey was conducted through in-depth telephone interviews and achieved a very high response rate of 80%.

The principle findings of the survey are:

(a) there is a consensus among rail users surveyed for a significant limitation on the ability of the railways to set prices collectively;

(b) increased intramodal rail competition is viewed as beneficial;

(c) 55% of respondents' total rail expenditures is captive to either CN or CP and of the remaining 45% subject to intramodal competition, 29% is also subject to intermodal competition;

(d) Canadian rail users generally see the results of the 4R and Staggers Act as being of benefit notably in the area

The most conservative options (1, 2 and 3), insofar as they call for the least change from present policy with respect to collective railway pricing, received support from less than a third of firms.

Option 9 provided for the most dramatic departure from existing policy by proposing legislative amendments to fully deregulate railway ratemaking. This option received the highest number of votes at the "least desirable" end of scale.

Concerning general notions on the appropriate degree of railway competitiveness, surveyed firms are primarily of the view that competition between railways is necessary to encourage innovation and efficiency leading to flexible and innovative service and pricing actions as well as research and development. They also have some expectation that increased intramodal competition would favour shippers located at competitive points while resulting in higher rates for rail-dependent shippers at captive points. However, few respondents are concerned that competition between railways would negatively affect their commercial viability by reducing railway earnings and endangering provision of adequate and efficiently supplied railway services.

CHAPTER I

THE SURVEY IN PERSPECTIVE

1.1 Purpose and Orientation

Railway companies in Canada are allowed to exchange information with respect to costs and may agree upon and charge common rates by virtue of Section 279 of the Railway Act. Further, Section 32(2) of the Transport Act provides that no agreement for an agreed charge for the transport by rail from or to a competitive point, or between competitive points, on the lines of two or more carriers by rail shall be made unless the competing carriers by rail consent thereto in writing or join in making it. Developments in the United States providing for the gradual deregulation of American rail carriers have given rise to much discussion in Canada concerning the relative merits of similar changes to Canadian legislation aimed at limiting Canadian rail carriers' ability to collaborate on rates.

In view of the wide divergence of opinion on these matters, the Bureau of Competition Policy determined that a systematic solicitation of views directly from individual rail users would add an important dimension to the debate. For the purpose of refining the topics to be addressed in a formal structured questionnaire, consultations were held with a number of private and public sector persons having an interest in these matters. As well, recent research work on the topic and position papers of numerous interested parties were examined. This consultation and research process importantly shaped the substance of the questionnaire by assisting in the identification of relevant data and issues on which opinions were to be sought.

The questionnaire was structured into three areas of examination. Numerical information was sought to characterize

survey respondents and to provide orders of magnitude on the importance of various aspects of the results and is presented in Chapter 1. Firms were also asked to offer their opinions on several key issues associated with collective versus competitive rate-making which is discussed in Chapter 2. Finally, questions aimed at identifying preferred courses of action with respect to Section 279 of the Railway Act and Section 32(2) of the Transport Act were asked and are the subject of Chapter 3.

Numerical information focussed on firms' gross revenues and transportation costs in total and by mode inbound and outbound to and from points in Canada and the United States. Data on rail users' geographic distribution of shipping origins, their number of shipping and/or receiving points by access to rail service, and the service they receive at those points by rail carriers were sought to provide an idea of the degree of shipper captivity or, alternatively, the availability of viable access to more than one mode and more than one rail carrier.

A fundamental issue on which rail users' opinions were examined is the circumstances under which Canadian railways should be allowed to consult each other and be required to publish their rates. Another major set of issues relates to rail users' experiences in transborder shipping since the implementation of the 4R and Staggers Acts. Users were asked to comment on the potential consequences of rail deregulation in Canada including the effects on Canadian railroads' financial situation, the transfer of major cost burdens from competitively located to non-competitively located shippers, increased costs of rate negotiation to individual shippers, etc ...

Respondents were also asked to identify any potential effects of rail deregulation including improved terms and conditions of trade, more favourable rates, shippers' competitive position, railway innovation and responsiveness to shipper needs,

railway efficiency and productivity, etc.. The extent to which, in a hypothetical deregulated environment, Canadian railways should be relieved of certain responsibilities such as rate publication, submission to Section 23 NTA rate appeals, common carrier obligation, interswitching, etc. was a further issue on which traffic managers were queried ...

Having stated their views on these issues, respondents were then asked to express their choice between making the terms of agreed charge contracts confidential, versus the right of individual shippers and carriers to independent action in the negotiation of exclusive terms in contracts and, their preference of a number of alternatives for the most desirable degree of competitiveness in railway rate-making.

1.2 Survey Response and Presentation of Results

In the fall of 1983, questionnaires were mailed to a sample of 412 unduplicated firms, or individual corporate entities, drawn from customers lists provided to the consultant on a confidential basis by CN Rail and CP Rail. The 412 include 41 truckers, freight forwarders and steamship lines - firms grouped together as "wholesale users" - and 371 regular or "retail users" of rail transportation services. Following the elimination of firms for various reasons (out-of-scope, operations and respondent domiciled in the U.S.), questionnaire received by both a parent and a subsidiary but yielding a single response, etc...) the true sample is considered to be 375 firms.

Applying the above-mentioned elimination factors proportionally to the total population - i.e., customer lists of the two railways - the true population was reduced from an initial 4,592 firms to 3,318. The survey can then be thought of as having consulted 11.3% of unique unduplicated in-scope individual railway customers. It is noted that this population does not include past

or potential rail users who do not make use of railway services because they are dissatisfied with current arrangements allowing railways to price collectively or for other reasons.

Overall the survey achieved an effective response rate of 80% (300 of the sample of 375), a rather high rate for this type of survey.

Along with the questionnaire, selected firms were sent a covering letter explaining the purpose of the survey, definitions of rate categories, relevant quotes from legislation and brief summaries of railway and shipper positions on collective rate-making. (These materials are included in this report as Appendix D). Individual participants were then contacted by telephone and their responses and comments were recorded by a professional interviewer.

Specific individuals interviewed were the most senior person responsible for transportation and distribution in the firm. Such persons were either identified to the consultant by the two railways or were delegated by firm's senior management following initial contact. Such individuals most often ranged from "Traffic Manager" to "Vice-President - Physical Distribution Services" in larger firms and tended to be "President" or "Marketing/Sales Manager" in the case of smaller firms. Usually a single individual was able to answer most of the questions but frequently the advice of the accountant or controller was sought to assist in the provision of numerical information.

In order to add the dimensions of magnitude, orientation, and direction of rail traffic activity to the analysis, surveyed firms were categorized as being either large or small, as shippers or consignees, and as being experienced in transborder shipping or having primarily domestic rail traffic patterns. For the purpose of this report, a large user is defined as one that

pays over $1 million per year for inbound and outbound rail traffic. Remaining firms are defined as small. It should be noted that small rail users may in fact be very large companies with only relatively small or sporadic rail movements. An important reason for this seemingly high size definition level is that the great bulk of railways' revenues are derived from "large" customers (see Table B.4). Further, for those large firms who make use of rail only in a small way and for what one might normally consider to be the "small" shipper, railway transportation (for whatever the reasons) simply may not be the prevalent economic mode. For the above reasons, shipper size definitions have been based on actual rail expenditures rather than gross sales.

A firm is defined in this report as having "transborder" experience if it pays more than $100,000 per year for rail freight moving to and from the United States and "domestic" if it pays less than this amount. Also, for simplicity of definition, a firm is considered herein to be a "shipper" if its outbound transportation costs are greater than its inbound transportation costs; conversely, a "consignee" is defined as a firm whose consignment freight payments are higher than its shipment freight payments.

A final stratification or categorization of firms is based on geographical distribution or region. Because of the multi-plant and multi-provincial activities of many of the firms surveyed, they have been categorized as belonging to a given region, not based on the address of the individual who completed the questionnaire, but rather on the firm's regional distribution of Canadian shipping origins. For example a firm which ships most of its output from the Prairies and which has its head office (and traffic manager) located in Toronto is classified as "Prairie" respondent. A firm shipping more than 50% of its product from any region is classified as belonging to that region. In the case of 50-50 ties between two regions, the location of the head office is

chosen as the region of classification. A firm which does not ship as much as 50% of its product from any one region is classified as "National".

Of the 300 firms which responded, the data of 14 sampled firms are included in the data of their sampled parent companies. Also, four firms replied too late to have their views incorporated into the computerized analysis. This survey report is based therefore on 282 unique data records. Throughout the report, survey results are presented to reflect the different views of respondents with respect to their location as well as the magnitude, direction, and orientation of their traffic. It is noted that in certain tables, where some respondents chose not to answer a question, the total number of firms may be less than 282. The number of responses included in each of the strata is shown in Table 1.1.

The establishment of the precise representativeness of surveyed firms is a difficult task in consideration of the number of questions asked. However, an example of the survey's degree of accuracy has been estimated based on the response to a question concerning two alternative approaches to agreed charges. The proportion of respondents favouring the status quo on agreed charges (question # 8e)) is estimated to be 47.5% plus or minus 5% with 92% confidence. It must be borne in mind however, that because this is an opinion survey, there is no statistically acceptable way of identifying a cut-off point beyond which small

TABLE 1.1

NUMBER OF RESPONSES PER STRATUM

Stratum name	Number of responses included in analysis
All Firms	282
Wholesale Users (truckers, freight forwarders and steamship lines)	25
Retail Users	257
By Volume of Rail Expenditures:	
Large	170
Small	112
By Orientation of Traffic:	
Shipper	225
Consignee	57
By Direction of Traffic:	
Domestic	127
Transborder	155
By Geographical Distribution:	
National	42
B.C.	49
Prairies	50
Ontario	82
Quebec	47
Maritimes	12

differences of opinion can be disregarded. Every effort has been made to present the data in an objective manner which, with these caveats in mind, allows readers to exercise their own judgement on the issues discussed in the report.

1.3 Respondent Characteristics

In order to allow for the qualification and classification of their responses, survey participants were asked to provide an estimate of their annual gross revenues and transportation costs. Further, respondents were asked to provide breakdowns on the regions of origin of their shipments and the amounts they spend annually on rail, truck and other modes for inbound and outbound transborder and domestic shipments and consignments.

Respondents report that on total gross revenues of $122 billion, they pay transportation costs of $5.451 billion.* Of this amount $3.284 billion is spent on rail - 44% of which relates to transborder movements and 56% to domestic movements. Inbound and outbound rail traffic is split 20% and 80% respectively. Table 1.2(a) reports survey participants' traffic distribution by mode, direction and orientation. A detailed breakdown of rail traffic is shown in Table 1.2(b).

TABLE 1.2(a)

ANALYSIS OF TOTAL TRANSPORTATION COSTS
($ Millions)

INBOUND	TRANSBORDER	DOMESTIC	TOTAL
Rail	236	423	659
Truck	155	363	518
Other	46	108	153
Total Inbound	437	894	1,331
OUTBOUND			
Rail	1,224	1,400	2,624
Truck	362	1,034	1,396
Other	36	64	100
Total Outbound	1,622	2,498	4,120
TOTAL TRANSPORTATION	2,059	3,392	5,451

TABLE 1.2(b)

ANALYSIS OF RAIL TRANSPORTATION COSTS
($ Millions)

INBOUND	TRANSBORDER	DOMESTIC	TOTAL
Inbound	236 (7.2%)	423 (12.9%)	659 (20.1%)
Outbound	1,224 (37.3%)	1,400 (42.6%)	2,624 (79.9%)
Total	1,460 (44.5%)	1,823 (55.5%)	3,283 (100.0%)

* Further information is provided in Table B.1.

To help put these figures and the survey in perspective, Statistics Canada Railway Operating Statistics (52-003, Dec. 1982) reports total rail freight revenues of Canadian railways for 1982 at $4.8 billion. Because the present survey does not treat the extent of transborder rail payments to American versus Canadian carriers, it is not easily possible to correlate Statistics Canada figures to freight costs reported in the survey. However, the firms whose views are presented in this report account for a very substantial amount of rail freight as shown in Table 1.2(b). Survey respondents were also asked to indicate the number of shipping/receiving points they operate in Canada (question #4) as shown in Table 1.3.

TABLE 1.3

DISTRIBUTION OF SURVEY PARTICIPANTS' SHIPPING/RECEIVING POINTS BY TYPE OF RAIL ACCESS (Question #4)

Type of Rail Access	# of Points	% of Total
1. Joint CN/CP Trackage	366	9.6%
2. CN Only	1,192	31.3%
3. CP Only	811	21.3%
4. Joint Access CN/CP through interswitching	453	11.9%
5. Other Canadian Railway	126	3.3%
6. A U.S. Railway	30	0.8%
7. Joint CN/Other Rail	31	0.8%
8. Joint CP/Other Rail	12	0.3%
9. No Rail Access Whatsoever	786	20.7%
Total Points	3,807	100.0%

Of a total of 3,807 shipping/receiving points, 2,159 (57%) are captive to a single carrier (items 2, 3, 5, and 6). Moreover, of the $3.284 billion that survey respondents assign to railways, 43% ($2.346 billion) is considered captive to the railways mode (question #5). From information provided in Table B.1 showing that 32% of total rail freight costs are captive to CN Rail and 23% are captive to CP Rail (for a total of 55% or $1.828 billion captive to either railway), it follows that 45% or ($1.456 billion) of total rail freight costs is potentially subject to competition. Within this amount, 29% or (($3.284 - $2.346)/$3.284) of actual rail freight moved is divertable to other modes and the balance, approximately 16%, or (($2.346 - $1.828)/3.284) is subject to intramodal competition.

Table 1.4 shows a breakdown of the value of commodites shipped by region of origin, and indicates a good cross-section of traffic and economic activity in Canada.

TABLE 1.4

VALUE OF COMMODITIES SHIPPED BY REGION OF ORIGIN
($ Millions)

	Gross Revenues Reported	Percent
British Columbia	17,418	14.3
Prairies	23,037	18.9
Ontario	50,881	41.7
Quebec	25,725	21.1
Maritimes	4,894	4.0
Total	121,955	100.0

It is further noted that the 282 respondents report 555 memberships in 91 different industry associations. Chief of these are the Canadian Manufacturers Association and the Canadian Industrial Traffic League of which 52% and 38% of surveyed firms are members respectively. Only 10 per cent of firms report membership in freight buying groups.

CHAPTER 2

USERS' VIEWS ON COLLECTIVE RATE-MAKING ISSUES

2.1 Introduction

An appreciation of survey respondents' views and suggestions for change to current collective railway rate-making practices may be gained through an understanding of users' opinions on several directly associated issues. In this regard, participants were asked to react to several statements on their experiences with intermodal and intramodal competition and to certain stated notions or positions on railway competitiveness in general. Users' perceptions on the organization best able to look after their interests with respect to railways were also sought.

Moving to the very specific, surveyed rail users identified the individual rate categories in which they think railways should be allowed to confer and those rates which railways should be required to publish (question #7). Since the foundation for many users' views on railway competition in Canada is the experience they have had in dealing with deregulation of American rail carriers, participants were asked to rate US railways' performance in a number of aspects of service (question #9.a); ratings of expected effects on the same service aspects under a hypothetical deregulated Canadian rail transportation system were also sought (question #9.b). Finally, users were asked to identify those aspects of current regulated railway responsibilities which should be continued in the event that Canadian rail transportation was deregulated or made more competitive (question #10).

2.2 Intermodal and Intramodal Competitiveness

The extent to which users are experiencing competition or rivalry for their traffic between railways and/or between railways and truckers adds an important dimension to users' evaluations of current legislation and arrangements with respect to collective railway rate-making. Using a 1 to 5 rating scheme - 1 meaning strongly disagree and 5 meaning strongly agree - survey participants were asked to rate four statements describing the extent to which they have been experiencing intermodal and intramodal competition for their traffic (question #10):

1) Canadian railways currently compete vigorously with each other for my traffic.

2) Canadian railways compete with each other much more today than they did five years ago.

3) Canadian railways currently compete vigorously with truckers for my traffic.

4) Canadian railways compete with truckers much more today than they did five years ago.

The results in Table 2.1(a) and 2.1(b) show that, in general, rail carriers are not perceived as being very competitive with one another. One large domestic shipper explains how the nature of his traffic does not lend itself well to competition:

> Our shipping and receiving warehouses are basically located on the trackage of one railway and most of our traffic moves by tanker car and bulk containers. Approximately 99.9% of our traffic originates and moves within Canada. There is no reason for rail carriers to compete for our traffic because the one railway is best equipped to handle all our volumes and there is no way that truckers can compete with rail carriers for our trade because they just don't have the facilities.

However, a large domestic shipper from British Columbia notes:

> The railways really don't care about the small shipper. It's very unfortunate when you have to go to a transport company on your hands and knees and beg them to take your business.

If Canadian railways are not considered very competitive it is generally conceded that they are competing more

TABLE 2.1(a)

RATINGS OF STATEMENTS ON PERCEIVED DEGREE OF INTERMODAL AND INTRAMODAL COMPETITIVENESS* (Question #12)

	Rail vs. Rail Competition (Intramodal)		Rail vs. Truck Competition (Intermodal)	
	Compete vigorously	Compete more than 5 years ago	Compete vigorously	Compete more than 5 years ago
All Firms	2.77	3.09	3.16	3.40
Wholesale Users (Freight Forwarders, Truckers, Steam Ship Lines)	2.76	2.84	3.00	3.16
Retail Users (not including F.F., Truckers, SSL)	2.77	3.12	3.18	3.43
By Volume of Rail Expenditure:				
Large	2.81	3.14	3.26	3.46
Small	2.71	3.02	3.01	3.31
By Orientation of Traffic:				
Shipper	2.73	3.11	3.17	3.42
Consignee	2.93	3.02	3.11	3.35
By Direction of Traffic:				
Domestic	2.81	3.13	3.08	3.33
Transborder	2.74	3.06	3.23	3.46
By Geographical Distribution:				
National	3.00	3.48	3.33	3.55
B.C.	2.22	2.55	2.43	2.86
Prairies	2.82	3.18	3.20	3.35
Ontario	2.93	3.18	3.24	3.40
Quebec	3.06	3.32	3.64	4.00
Maritimes	1.75	2.08	2.92	3.00

* A rating of one means strongly disagree and a rating of five means strongly agree.

TABLE 2.1(b)

RELATIVE PREFERENCE OF STATEMENTS ON PERCEPTIONS OF INTERMODAL AND INTRAMODAL COMPETITIVENESS (Question #12)
(Scale of Preferences: 1 = Strongly Disagree; 5 = Strongly Agree)

	Rail vs. Rail Competition (Intramodal)		Rail vs. Truck Competition (Intermodal)	
	Compete Vigorously	Compete More than 5 Years Ago	Compete Vigorously	Compete More Than 5 Years Ago
# Respondents answering: 1 (Percentages in Parentheses)	93 (33.0)	67 (23.8)	52 (18.5)	41 (14.6)
2	44 (15.6)	29 (10.3)	38 (13.5)	32 (11.4)
3	35 (12.4)	67 (23.8)	61 (21.7)	56 (19.9)
4	53 (18.8)	50 (17.7)	72 (25.6)	73 (26.0)
5	57 (20.2)	69 (24.5)	58 (20.6)	79 (28.1)
Total	282	282	281	281
Mean Response	2.8	.1	3.2	3.4
Median Response	3	3	3	4
# Respondents Answering: 1/2	137 (48.6)	96 (34.0)	90 (32.0)	73 (26.0)
3	35 (12.4)	67 (23.8)	61 (21.7)	56 (20.0)
4/5	110 (39.0)	119 (42.2)	130 (46.3)	152 (54.0)

today than they did five years ago. Highest ratings on this notion are given by national and Quebec rail users with other firms giving slightly above neutral ratings to this second statement. British Columbia and Maritime shippers believe that there has been no change in railway competitiveness over the last few years.

A large national transborder shipper offers this view:

> During difficult times in the last few years we have seen railways aggressively compete for our traffic. Railways are offering more competitive prices than they ever have before and they seem to be getting away from their former practices of colluding to a point where there was only one rate.

However, a large transborder shipper from Quebec cautions:

> The railways have publicly stated that intramodal competition will subside once their current excess capacity becomes utilized.

The highest ratings on the various statements on railway competitiveness are given to notions involving intermodal competition, where rail carriers are thought to be competing with highway transport carriers now and more so than five years ago. All ratings to the two statements in this regard tend to be above average with national and Quebec users again giving highest ratings while B.C. and Maritime users still see no change. A large transborder consignee from Quebec explains:

> In general transportation has become much more competitive due to the presence of increased trucking and also due to the current economic slump.

A large transborder shipper from the Prairies adds:

> As it stands we have a choice of fifteen competitive truckers and if CN or CP want our business that desperately they would have to meet the truckers' prices.

A large transborder shipper from Ontario also points out that:

> At present the truck mode provides the competition for all traffic under 500 miles and does it very favourably.

A large national transborder shipper agrees along the same lines but adds:

> Railways are competing more with truckers today than they have in the past but it is more a sign of the economic times. When good economic times return, we will be subject to the monopolistic power of the railways and the motor transport bureaux again.

Typical of rail users who give a lower rating or a negative outlook concerning statements on intermodal competition were the following remarks:

> I am very upset with railways because they do not compete against each other or any other mode. For example, if there were another plant in the area, and they were already serviced by the same railway and I applied for a particular rate, I would get the same rate as the other mill, no more no less, regardless of volume. What is even worse is that the railway will not undercut truck rates in my area. (Large transborder shipper from B.C.)

> At one time we used to ship by rail because we had no other choice, but now all our products go out by truck. The reason for that is that the provincial governments increased the gross vehicle weight for trucks to 140,000 lb. and shipping by truck has become more viable. (Large domestic shipper from B.C.)

> As our freight volumes became too low for the railways, it necessitated the pulling of the spur lines that serviced our plant and forced us to move all our traffic by truck. (Small domestic shipper from Ontario)

> There is no way we can negotiate with railways because they say we are just too small and that we don't have enough volume for them to give us a good competitive rate. (Small domestic consignee from Ontario)

A large domestic shipper from British Columbia points out that railways in general have a very unsympathetic attitude towards shippers who have small volumes and in that case leave their business to the highway carrier.

> This type of behaviour seems ridiculous. Why would someone in the transport business neglect new business and drive them into the hands of their competitor? The answer is basically that the Canadian National Railway and the Canadian Pacific Railway own the two largest trucking companies in Canada. Therefore we have some serious concerns about the railway ownership of the trucking industry.

> Traffic managers have been somewhat naive in their support for the status quo. Really, railways have been exerting quite a bit more control in the truck tariff bureaux than they would have us believe. From an energy conservation and cost effectiveness point of view, a lot of truck traffic is going piggy-back. The railways can exert enough control over this traffic to eventually

force truckers out of the transcontinental long-haul transportation market, further eliminating alternatives for shippers. The whole question of competition among transport industries needs examination.

2.3 Users' Views on Railway Competition

In another approach to determining users' views on the appropriate degree of railway competitiveness in Canada and their expectations for railway service in a deregulated or more competitive environment, shippers, consignees, freight forwarders, truckers, and representatives of steamship lines were asked (question #11) to rate the following statements on a one to five basis with one meaning strongly disagree and five meaning strongly agree:

1. Competition between railways acting independently is necessary to encourage innovation and efficency leading to flexible and innovative service and pricing actions as well as research and development.

2. Competition between railways would negatively affect their commercial viability by reducing railway earnings and endangering provision of adequate and efficiently supplied railway services.

3. Increased intramodal competition would favour shippers located at competitive points while resulting in higher rates for rail-dependent shippers at captive points.

4. Collective pricing serves carriers and shippers well, is beneficial for small shippers, and facilitates consideration of the reasonableness of rate relationships.

The above statements include a number of traditional concerns that railway users have concerning a deregulated railway environment. Tables 2.2(a) and 2.2(b) present the averaging of

TABLE 2.2(a)

RATINGS OF VARIOUS STATEMENTS ON THE APPROPRIATE DEGREE OF RAILWAY COMPETITIVENESS * (Question #11)

	Competition between railways would be beneficial	Competition would affect railways negatively	Competition would favor shippers at competitive points	Shippers & Carriers are served well under present system
All Firms	3.91	2.25	3.37	3.20
Wholesale Users (Freight Forwarders, Truckers, Steam Ship Lines	3.56	2.68	3.96	3.64
Retail Users (not including F.F., Truckers, SSL)	3.94	2.21	3.32	3.16
By Volume of Rail Expenditure:				
Large	3.87	2.25	3.41	3.19
Small	3.96	2.26	3.32	3.23
By Orientation of Traffic:				
Shipper	3.97	2.23	3.38	3.15
Consignee	3.65	2.35	3.37	3.42
By Direction of Traffic:				
Domestic	3.87	2.34	3.45	3.29
Transborder	3.94	2.18	3.31	3.13
By Geographical Distribution:				
National	3.74	2.38	2.95	2.88
B.C.	3.92	2.23	3.73	3.54
Prairies	4.10	1.96	3.36	3.30
Ontario	3.77	2.35	3.39	3.06
Quebec	4.09	2.32	3.47	3.36
Maritimes	3.92	2.17	3.00	2.92

* A rating of one means strongly disagree while a rating approaching five means strongly agree.

TABLE 2.2(b)

RELATIVE PREFERENCE OF STATEMENTS ON THE APPROPRIATE DEGREE OF RAILWAY COMPETITIVENESS (Question #11)
(Scale of Preference: 1 = Strongly Disagree; 5 = Strongly Agree)

		Competition Between Railways Would Be Beneficial	Competition Would Affect Railways Negatively	Competition Would Favour Shippers at Competitive Points	Shippers & Carriers Are Well Served Under Present System
Number of Respondents Answering: (% in Parentheses)	1	25 (8.9)	104 (37.0)	27 (9.6)	29 (10.3)
	2	17 (6.1)	80 (28.5)	36 (12.8)	52 (18.5)
	3	44 (15.7)	42 (14.9)	87 (31.0)	90 (32.0)
	4	67 (23.8)	32 (11.4)	67 (23.8)	55 (19.6)
	5	128 (45.6)	23 (8.2)	64 (22.8)	55 (19.6)
Total		281	281	281	281
Mean Response		3.9	2.3	3.4	3.2
Median Response		4	2	3	3
Number of Respondents Answering:	1/2	42 (14.9)	184 (65.5)	63 (22.4)	81 (28.8)
	3	44 (15.7)	42 (14.9)	87 (31.0)	90 (32.0)
	4/5	195 (69.4)	55 (19.6)	131 (46.6)	110 (39.2)

respondents' ratings of the four statements. The consensus among all surveyed firms considered together is that in a competitive environment, railways would manage well and provide efficient flexible and innovative services. To a lesser extent they also believe that rail-dependent users at captive points would be required to pay higher rail rates than users located at competitive points (Question 11-3). A large transborder shipper in the Prairie region states:

> There are some industries and some traffic which will always be captive and which will require some protection in a deregulated environment no matter what the case.

In addition a small national domestic shipper points out:

> As a small Canadian shipper we believe in honest free competition and transport deregulation even though small shippers will become rate takers more than ever while large companies will be able to dictate to rail carriers.

Survey participants generally do not agree that competition would reduce railway revenues resulting in less than adequate and less efficient services (question 11-2). Prairie and Quebec shippers rate highly the notion of the necessity for railways to compete in a free market system. Small shippers and wholesale users which include freight forwarders, trucking companies, and steamship lines also agree with this view, but they tend to give the lowest ratings among all the categories. The premise that railways would suffer financially in a competitive/deregulated environment in which services would be negatively affected is of concern to less than 20% of respondents. A small domestic shipper points out:

> Our Canadian railways are run very soundly and economically in the present regulated system. I believe that they will continue to do so in a free and open environment simply because there are only two railways and it would not be practical for them to get involved in suicidal price wars that would destroy their viability and ability to serve those that pay the bill.

On the whole, respondents do not think that railways would be affected negatively in a competitive scenario but approx-

imately 47% anticipate that rail-dependent users at captive points would be required to pay higher rates than users located at competitive points. Firms in the Wholesale, British Columbia, Quebec and Domestic categories are the strongest proponents of this view. Even though Maritime shippers give the lowest rating to this particular stance, a large transborder shipper from the Maritimes points out:

> Businesses which are captive in the Maritimes have a tough enough time dealing with their railroad already. I am afraid that deregulation would result in reduced service and higher cost, not to mention the abandonment of present rail lines that may not be profitable.

In rating the fourth statement concerning present collective rate-making and rate relationships, 40% of users agree that the present situation seems adequate (question 11-4). Wholesale users and consignees however are very strongly in accord with the belief that the present system is acceptable and has served them well.

2.4 Protection of Users' Interests with Respect to Railways

The perception that competition between railways is desirable yet somewhat limited gives rise to the question of the extent of recourse or counterbalancing power users might have in their dealings with railways. In this regard shippers were asked to rate alternative bodies or organizations (using a 1 to 5 rating scheme as in sections 2.1 and 2.2 of this report) best able to protect their interests with respect to railways (question 13). The alternatives for which ratings were sought are (in no particular order): 1) Canadian Transport Commission; 2) Industry Associations; 3) Individual shippers themselves; 4) Director of Investigation and Research under the Combines Investigation Act; 5) Individual railways; 6) Freight clubs or freight buying groups; and 7) Provincial government agencies.

Overall, survey participants have very few comments to make with regard to the seven categories mentioned. These comments were as follows:

> The Canadian Transport Commission has the power to protect the shipper against any prejudicial actions by the railways under the present legislation but to my knowledge they have been protecting the railways, who need no protection, instead of the shippers. (Large domestic Prairie shipper)
>
> I believe that industry associations do more for shippers as a whole than all government bodies put together. (Large domestic shipper from Ontario)
>
> On the whole, large shippers tend to protect their interests very favourably while small shippers group together in associations to make better terms with railways. As a large shipper we wield the big stick because we have large traffic volumes, which railways are very interested in." (Large transborder shipper from Quebec)

Table 2.3 shows generally that all respondents, including categorizations of firms by orientation and volume of trade and by geographical distribution, give the highest rating to "industry associations" and rate "individual shippers" a close second. The Canadian Transport Commission is also rated highly as an institution best able to protect shippers' interests by all except Prairie and Maritime shippers.

The below-neutral ratings (i.e., less than 3.0), in declining order are freight buying groups, individual railways, the Director of Research and Investigation under the Combines Investigation Act, and lastly, provincial government agencies. Provincial governments are given the lowest rating of all groups, the consensus being that there have been no instances, as far as any surveyed shipper could remember, where provincial governments interceded successfully on their behalf. In fact, many firms believe that provincial governments are powerless in this instance because they have no control over federal transport policy matters or regulatory decisions.

TABLE 2.3

RATINGS OF ORGANIZATIONS BEST ABLE TO LOOK AFTER THEIR INTERESTS WITH RESPECT TO RAILWAYS* (Question #13)

	CTC	Industry Associations	Individual Shippers	Director Combines Act	Individual Railways	Freight Buying Groups	Provincial Governments
All Firms	3.18	3.42	3.30	2.05	2.23	2.53	1.75
Wholesale Users (Freight Forwarders, Truckers, Steam Ship Lines)	3.24	3.32	2.96	1.92	2.60	2.44	1.76
Retail Users (not including F.F., Truckers, SSL)	3.17	3.43	3.33	2.11	2.19	2.54	1.75
By Volume of Rail Expenditure:							
Large	3.19	3.44	3.37	2.05	2.22	2.43	1.70
Small	3.16	3.39	3.18	2.15	2.24	2.69	1.82
By Orientation of Traffic:							
Shipper	3.10	3.43	3.39	2.08	2.17	2.56	1.68
Consignee	3.46	3.36	2.91	2.15	2.45	2.42	2.04
By Direction of Traffic:							
Domestic	3.22	3.24	3.24	2.11	2.33	2.65	1.90
Transborder	3.14	3.57	3.35	2.07	2.14	2.43	1.62
By Geographical Distribution:							
National	3.05	3.52	3.62	2.27	2.02	2.66	1.61
B.C.	3.23	3.30	2.66	2.17	2.21	2.48	1.70
Prairies	2.92	3.30	3.58	1.80	2.42	2.75	1.88
Ontario	3.25	3.38	3.44	2.09	2.23	2.52	1.79
Quebec	3.47	3.62	3.15	2.23	2.26	2.34	1.66
Maritimes	2.83	3.50	3.08	1.83	2.08	2.25	1.92

* A rating of one means least able and a rating of five means best able.

Concerning the utility of freight clubs or freight-buying groups with respect to their ability to protect users' interests, it is noted that of the 282 firms interviewed only 10% report membership in any group associated for the purpose of buying freight. That respondents would give freight buying groups a below-neutral or negative rating follows since a minority of firms have experience in such groups at present. Finally, large firms tend not to participate in these groups because they feel that they themselves and/or their industry associations are best equipped to handle their affairs with the rail carriers.

2.5 Rate Collaboration between Railroads and Rate Publication

A key issue of concern in this survey is whether railways should be allowed to confer on all or any rates. The requirement for rate publication is provided in Section 275(1) of the Railway Act which states "Every freight tariff and every amendment of a freight tariff shall be filed and published...". Positions of the proponents of alternative approaches to this issue range from complete denial to partial and in some cases complete approval of railway collaboration.

Survey respondents were asked to identify those specific rate categories in which railways should be allowed to confer and which rates railways should be required to publish (question #7). The different rate categories on which users' opinions were sought are defined as follows:

Class rates are designed to provide ceiling rates for all classes or groupings of articles or commodities moving between all points in Canada served by the railways.

Local commodity rates are negotiated rates, allowing the movement of a specific commodity between specific points at competitive rates for captive shippers having no alternative modes of transportation except one carrier.

Competitive rates are class or commodity rates designed by railways in recognition of competition from other modes or carriers.

Agreed charges are contractual rates between shippers and railways allowing the movement of specific commodities between specific

points at reduced rates for guaranteed volumes. Under existing contractual arrangements, shippers not being party to original agreed charge negotiations are allowed to apply to participate.

Joint interline rates are published as a single through rate jointly by two or more interconnecting carriers involved in the interline movement.

Combination rates are a combination of two or more local rates covering interline movement.

Intermodal rates are rates for moving road transport trailers or containers on railway flat cars - also known as rates for piggy-back (TOFC & COFC).

General rate surcharges are supplementary charges added to the base rate (eg. fuel surcharge).

Transborder rates are designed in concurrence with domestic and foreign connecting carriers to provide international through rates.

Special arrangement tariffs are charges covering ancillary services such as switching, interswitching, terminal charges, transit arrangements stop-off privileges, limited movements of freight (LPT), etc...

The majority of firms (66%) agree that class rates may be set collectively. Most firms also agree that railways should collaborate on rates which require the use of more than one rail carrier - joint interline rates (65%), combination rates (57%) and some transborder (54%) rates. In other rate categories where only one carrier is required, surveyed shippers are evenly divided on whether or not railways should confer. The percentage of users favouring collective rate-making in different categories of rail rates is shown in Table 2.4.

Two small national domestic shippers comment:

> We agree with collective ratemaking but there has to be some control. I feel that it is necessary for railways to confer amongst themselves because not all carriers serve all points and joint rates must be set somehow.
>
> We are opposed to secret rate negotiation and strongly urge continuation of the status quo in the railway rate-making and publication process. The alternative is, in our view, the opening up of chaotic confusion in the transport market place to the great detriment of transportation in the country in general.

A large domestic shipper from the Prairies points out that:

> Any type of secrecy in rail transportation is definitely negative. In secret negotiations, carriers can easily

TABLE 2.4

[illegible] OF FIRMS PROVIDING COLLECTIVE RATE-MAKING IN DIFFERENT CHARGERS OF RAIL RATES (Question 67(a))

	Class Rates	Local Commodity Rates	Competitive (Rail) Rates	Competitive (Other) Rates	Agreed Charges	Special Arrangements Tariffs	General Rate Surcharges	Intermodal Rates	Transloader Rates	Interline Rates	Combination Rates
All Firms	65.5	68.2	68.3	68.2	51.1	56.2	52.0	64.4	54.6	64.7	56.5
[illegible] firms	72.0	72.0	68.0	64.0	56.0	64.0	68.0	72.0	68.0	68.0	68.0
Small firms	64.6	65.4	67.4	68.6	50.6	65.2	51.2	61.7	53.4	65.2	56.1
By Value of Rail Expenditure:											
Large	63.5	63.2	66.2	65.6	48.5	56.0	50.0	61.4	52.9	67.6	56.1
Small	72.6	56.0	56.1	52.3	55.0	56.6	55.6	68.1	55.6	66.2	66.2
By Orientation of Traffic:											
Export	64.4	62.4	66.0	66.4	67.7	67.1	65.4	62.6	52.5	65.0	52.4
Foreign	68.0	66.0	58.0	52.0	66.3	62.5	66.7	52.4	66.0	62.6	66.1
By Direction of Traffic:											
Inward	65.0	58.4	53.7	56.5	52.3	56.0	56.0	52.6	52.4	58.7	58.0
Outward	65.0	62.3	65.0	62.2	67.7	67.2	58.3	58.7	52.2	66.0	56.5
By Geographical Area:											
[illegible]	72.4	68.5	55.7	51.1	62.4	57.7	65.2	58.2	62.9	64.9	67.6
[illegible]	65.0	58.1	66.0	52.2	62.5	56.2	52.2	66.6	66.6	72.9	62.5
[illegible]	58.1	65.0	66.0	58.1	66.0	56.2	52.2	52.2	62.0	58.2	62.5
[illegible]	72.0	58.2	55.2	58.2	62.2	62.2	57.2	66.0	66.7	66.2	66.7
[illegible]	68.1	62.0	55.2	62.0	58.1	51.0	52.2	52.6	62.0	52.2	66.7
[illegible]	62.7	58.2	72.1	66.7	58.2	58.2	58.2	62.7	58.2	72.1	58.0

> discriminate against business and keep them out of any markets they choose.

As concerns rate publication, the majority of respondents believe that rail carriers operating in Canada should be required to publish all rates. The percentage of users favouring rate publication in different categories of rail rates is shown in Table 2.5. Shippers express their views on the rate publication issue as follows:

> We really do not want the status quo in that we think there should not be railway agreement on price fixing. Rates however should be published and shippers should have access to agreed charges. (large transborder shipper from Quebec).
>
> Rates should be published to benefit provinces situated far from the eastern marketplace. (large domestic shipper from the Maritimes)

A large transborder shipper from the Prairies comments:

> The market for our product is higly competitive in the U.S. Canadian firms have difficulty competing there due to the distance from market and high transportation costs. Each product must be priced to meet U.S. competition in the marketplace and it is essential to know what the transportation costs are.

Another large transborder shipper from Quebec further adds:

> I am a relatively small shipper in a very competitive market competing with giants in the same market so I have to know what rates my competitors obtain for rail transport. We are in favour of a deregulated environment with wide-open competition but an environment in which railways publish their rates.

Other firms of course have the opposite view of rate publishing. One small national transborder shipper points out:

> Current laws concerning collective rate-making and rate publication are being broken now with no enforcement or penalties. We are therefore of the position that the only practical approach is to throw everything open to free enterprise.

A large transborder consignee from Quebec adds:

> I feel that railways should consult with one another to develop rates but that they should not make these rates public knowledge to shippers just as shippers do not publish their costs.

TABLE 2.5

PERCENTAGE OF USERS FAVOURING RATE PUBLICATION IN DIFFERENT CATEGORIES OF RAIL RATES (Question #7(b))

	Class Rates	Local Commodity Rates	Competitive (Rail) Rates	Competitive (Other) Rates	Agreed Charges	Special Arrangements Tariffs	General Rate Surcharges	Intermodal Rates	Transborder Rates	Interline Rates	Combination Rates
All Firms	82.1	72.4	71.0	68.1	65.2	61.4	68.9	66.3	68.1	69.4	66.5
Wholesale Users	88.0	80.0	68.0	80.0	76.0	72.0	68.0	80.0	64.0	72.0	72.0
Retail Users	81.5	71.7	71.3	66.9	64.2	60.4	69.0	65.0	68.5	69.2	66.0
By Volume of Rail Expenditure:											
Large	82.2	74.0	70.4	68.0	64.5	64.7	69.4	64.5	66.5	68.0	63.9
Small	81.8	70.0	71.89	68.2	66.4	56.4	68.2	69.1	70.6	71.6	70.6
By Orientation of Traffic:											
Shipper	81.5	70.3	68.5	66.2	63.1	60.5	66.4	63.5	65.5	66.7	64.4
Consignee	84.2	80.7	80.7	85.4	73.7	64.9	78.9	77.2	78.67	80.4	75.0
By Direction of Traffic:											
Domestic	80.6	73.4	71.8	71.0	66.9	62.4	67.2	71.0	68.0	68.5	67.7
Transborder	83.2	71.6	70.3	65.8	63.9	60.6	70.3	62.6	68.2	70.1	65.6
By Geographical Dist.:											
National	83.3	76.2	69.0	64.3	62.9	61.9	71.4	69.0	60.0	69.0	69.0
B.C.	81.3	66.7	77.1	68.8	75.0	54.2	72.9	70.8	79.2	75.0	64.6
Prairies	69.4	63.3	65.3	69.4	53.1	63.3	61.2	61.2	61.2	65.3	61.2
Ontario	90.1	81.5	70.4	71.6	76.5	70.7	75.6	72.8	74.1	76.3	76.3
Quebec	83.0	66.0	68.1	57.4	51.1	46.8	61.7	53.2	53.2	57.4	55.3
Maritimes	75.0	83.3	91.7	91.7	66.7	75.0	58.3	66.7	66.7	66.7	66.7

2.6 Effects Experienced Under US Deregulation

The basis of many firms' opinions on collective rate-making is their experience in transborder rail shipping under the American deregulated transportation environment. Of the total number of firms surveyed, 88% have past and current experience in transborder rail traffic and these firms were asked to rate a variety of factors relating to carrier performance and shipper/carrier relationships in transborder shipping (question #9a). The rated factors are detailed in Table 2.6(a) and 2.6(b).

It is noted that within the rating scale of 1 to 5, a preponderance of respondents rated various factors at the three level which can be considered as a measure of indecision, inexperience, or indifference. However, considering the ratings of individuals with definite views (positive or negative), it is possible to make several observations with respect to respondents' opinions on the effects of Staggers.

Survey participants point to improvements in seven of eleven aspects of service quality since the introduction of legislation deregulating American railroads. In declining order of degree of improvement, positive effects are reported on rate levels, railway innovation and responsiveness to individual shippers' needs, perceptions of railway efficiency and productivity, shippers' competitive position, speed of railways in quoting rates, availability of equipment on demand, and terms and conditions of carriage.

Canadian users have experienced some deterioration in four of eleven areas under US deregulation including availability of through rates, availability of routing alternatives, the extent of railway liability and negotiation time and expense for shippers.

TABLE 2.6(a)

RATINGS OF EFFECTS OF U.S. RAIL DEREGULATION EXPERIENCED BY CANADIAN RAIL USERS* (Question #9a)

	Rate Levels	Availability of Through Rates	Availability of Routing Alternatives	Availability of Equipment on Demand	Terms & Condition of Carriage	Speed in Quoting Rates	Negotiating Time & Expense For Shippers	Innovation & Responsiveness to Shippers	Railway Efficiency & Productivity	Railway Liability	Shippers' Competitive Position	Overall Rating
All Firms	3.41	2.91	2.89	3.07	3.01	3.11	2.82	3.39	3.26	2.94	3.13	3.09
Wholesale Users (Freight Forwarders, Truckers Steam Ship Lines	3.24	2.95	3.05	2.81	2.71	3.14	2.71	3.24	3.05	2.81	2.90	2.97
Retail Users (not including F.F., Truckers, SSL)	3.43	2.90	2.88	3.09	3.04	3.11	2.83	3.40	3.28	2.95	3.15	3.10
By Volume of Rail Expenditure:												
Large	3.49	2.89	2.78	3.06	3.04	3.20	2.80	3.46	3.29	2.94	3.18	3.10
Small	3.28	2.93	3.09	3.08	2.97	2.94	2.85	3.26	3.22	2.93	3.04	3.06
By Orientation of Traffic:												
Shipper	3.41	2.89	2.87	3.09	3.01	3.12	2.77	3.40	3.28	2.92	3.13	3.08
Consignee	3.45	2.98	2.98	3.00	3.02	3.06	3.02	3.35	3.20	3.00	3.12	3.11
By Direction of Traffic:												
Domestic	3.19	2.89	3.04	3.00	2.92	3.04	2.88	3.22	3.17	2.96	3.11	3.04
Transborder	3.56	2.92	2.79	3.12	3.07	3.16	2.78	3.59	3.33	2.93	3.14	3.12
By Geographical Distribution:												
National	3.76	3.14	3.12	3.06	3.18	3.44	3.21	3.59	3.44	3.32	3.44	3.34
B.C.	3.40	2.73	2.58	3.08	2.98	2.65	2.35	3.42	3.31	2.73	2.71	2.90
Prairies	3.44	2.88	2.71	3.15	3.07	3.02	2.83	3.41	3.24	2.93	3.20	3.08
Ontario	3.30	2.86	2.92	3.03	2.92	3.21	2.81	3.33	3.22	2.92	3.15	3.06
Quebec	3.47	3.03	3.26	3.00	3.03	3.32	3.08	3.39	3.18	2.89	3.24	3.17
Maritimes	2.92	2.92	2.75	3.25	3.00	3.08	2.83	2.92	3.17	3.00	3.25	3.01

* A rating of one means situation much worse and a rating of five means situation much improved.

TABLE 2.6(b)

RELATIVE AGREEMENT ON EFFECTS OF U.S. RAIL DEREGULATION EXPERIENCED BY CANADIAN RAIL USERS* (Question #9a)

(Scale of Preferences: 1=Strongly Disagree; 5=Strongly Agree)

		Rate Levels	Availability of Through Rates	Availability of Routing Alternatives	Availability of Equipment on Demand	Terms & Condition of Carriage	Speed in Quoting Rates	Negotiating Time & Expense for Shippers	Innovation & Responsiveness to Shippers	Railway Efficiency & Productivity	Railway Liability	Shippers' Competitive Position
Number of Respondents Answering: (% in Parentheses)	1	7 (2.9)	12 (4.9)	24 (9.8)	9 (3.7)	8 (3.3)	26 (10.6)	23 (9.4)	8 (3.3)	8 (3.2)	11 (4.5)	18 (7.3)
	2	19 (7.8)	36 (14.6)	35 (14.3)	20 (8.2)	23 (9.4)	28 (11.4)	48 (19.6)	16 (6.5)	13 (5.3)	28 (11.5)	20 (8.2)
	3	121 (49.4)	168 (68.3)	144 (58.8)	174 (71.0)	185 (75.5)	115 (46.9)	137 (55.9)	125 (51.0)	148 (60.4)	178 (73.0)	139 (56.7)
	4	60 (24.5)	22 (8.9)	27 (11.0)	28 (11.4)	15 (6.1)	44 (18.0)	23 (9.4)	64 (26.1)	57 (23.3)	18 (7.4)	46 (18.8)
	5	38 (15.5)	8 (3.3)	15 (6.1)	14 (5.7)	14 (5.7)	32 (13.1)	14 (5.7)	32 (13.1)	19 (7.8)	9 (3.7)	22 (9.0)
Total		245	246	245	245	245	245	245	245	245	244	245
Mean Response		3.4	2.9	2.9	3.0	3.0	3.1	2.8	3.4	3.2	2.9	3.1
Median Response		3	3	3	3	3	3	3	3	3	3	3
Number of Respondents Answering:	1 or 2	26 (10.6)	48 (19.5)	59 (24.1)	29 (11.8)	31 (12.7)	54 (22.1)	71 (29.0)	24 (9.8)	21 (8.6)	39 (16.0)	38 (15.5)
	3	121 (49.4)	168 (68.3)	144 (58.8)	174 (71.0)	185 (75.5)	115 (46.9)	137 (55.9)	125 (51.0)	148 (60.4)	178 (73.0)	139 (56.7)
	4 or 5	98 (40.0)	30 (12.2)	42 (17.1)	42 (17.2)	29 (11.8)	76 (31.0)	37 (15.1)	96 (39.2)	76 (31.0)	27 (11.0)	68 (27.8)

All rail users agree that the most prominent effect of US deregulation has been the availability of better rates even though negotiation time and expense for shippers appear to have increased. A large transborder shipper from Quebec explains:

> Since US deregulation, the US railways have become more involved in direct consultation with Canadian shippers. They have been coming up here to negotiate a deal directly, quoting a rate then going to the interlining Canadian carriers to make the final arrangements. The US carriers have been very innovative in seeking freight from Canadian shippers. Initially with the coming of the Staggers Act, US railway routes and rates were confused and inaccurate. After approximately one year it has settled and US railways are working aggressively to maintain their position.

2.7 Expected Effects of a Deregulated Canadian System

Surveyed shippers also indicate their conceptualization of a more competitive rail system in Canada by rating or predicting the various effects which would result from the implementation of Canadian legislation preventing railways from taking collective pricing action (question #7b). Ratings are given to those same eleven effects or impact areas rated by shippers in relation to their US experiences as shown in the previous section. The results are shown in Table 2.7(a) and 2.7(b). The incidence of 3 ratings concerning the effects of a hypothetical deregulated Canadian rail environment is notably less than that observed in the ratings of the effects of Staggers, which implies a greater degree of certainty with respect to opinions on domestic rail deregulation.

In relation to their Canadian traffic, survey participants expect improvements in the same seven areas in which improvements were experienced in relation to their transborder traffic. The most important of these is that railways are expected to become more innovative and responsive to individual shippers' needs. Rate levels, railway efficiency and productivity, and shippers' competitive position are also expected to

TABLE 2.7(a)

RATINGS OF EXPECTED EFFECTS OF CANADIAN RAIL DEREGULATION BY CANADIAN RAIL USERS* (Question #9b)

	Rate Levels	Availabi-lity of Through Rates	Availabi-lity of Routing Alterna-tives	Availabi-lity of Equipment on Demand	Terms & Condition of Carriage	Speed in Quoting Rates	Negotiat-ing Time & Expense For Shippers	Innovati-on & Res-ponsive-ness to Shippers	Railway Effici-ency & Produc-tivity	Railway Liability	Shippers' Competi-tive Position	Overall Rating
All Firms	3.29	2.96	2.84	3.01	3.02	3.15	2.81	3.34	3.27	2.88	3.25	3.07
Wholesale Users (Freight Forwarders, Truckers, Steam Ship Lines)	3.36	3.16	3.04	2.64	2.72	2.80	2.56	3.00	2.80	2.60	2.92	2.87
Retail Users (not including F.F., Truckers, SSL)	3.28	2.94	2.82	3.05	3.05	3.19	2.83	3.37	3.31	2.91	3.28	3.09
By Volume of Rail Expenditure:												
Large	3.27	2.89	2.79	3.02	2.98	3.17	2.76	3.37	3.25	2.85	3.20	3.05
Small	3.30	3.06	2.93	3.01	3.07	3.13	2.89	3.28	3.29	2.94	3.32	3.11
By Orientation of Traffic:												
Shipper	3.32	2.96	2.87	3.07	3.02	3.23	2.82	3.41	3.34	2.90	3.28	3.11
Consignee	3.14	2.93	2.72	2.79	3.00	2.88	2.79	3.07	2.98	2.81	3.12	2.93
By Direction of Traffic:												
Domestic	3.30	3.01	2.94	2.94	3.03	3.18	2.79	3.32	3.24	2.87	3.30	3.08
Transborder	3.27	2.92	2.77	3.07	3.01	3.14	2.82	3.35	3.29	2.89	3.20	3.06
By Geographical Distribution:												
National	3.56	3.07	3.05	3.20	3.32	3.51	3.12	3.59	3.39	2.98	3.51	3.30
B.C.	2.83	2.75	2.46	3.06	3.04	2.85	2.31	3.32	3.19	2.77	2.96	2.87
Prairies	3.43	3.02	2.76	3.10	3.04	3.14	3.02	3.32	3.34	2.96	3.43	3.14
Ontario	3.30	2.88	2.90	2.96	2.93	3.16	2.71	3.34	3.26	2.82	3.28	3.05
Quebec	3.26	3.04	3.09	2.91	2.93	3.20	2.96	3.24	3.20	2.93	3.16	3.08
Maritimes	3.64	3.33	2.67	2.58	2.75	3.00	3.00	3.00	3.17	2.91	2.83	2.98

* A rating of one means situation expected to deteriorate and a rating of five means situation expected to improve.

TABLE 2.7(b)

RELATIVE AGREEMENT ON EXPECTED EFFECTS OF CANADIAN RAIL DEREGULATION BY CANADIAN RAIL USERS* (Question #9a)

(Scale of Preferences: 1=Strongly Disagree; 5=Strongly Agree)

		Rate Levels	Availability of Through Rates	Availability of Routing Alternatives	Availability of Equipment on Demand	Terms & Condition of Carriage	Speed in Quoting Rates	Negotiating Time & Expense For Shippers	Innovation & Responsiveness to Shippers	Railway Efficiency & Productivity	Railway Liability	Shippers' Competitive Position
Number of Respondents Answering: (% in Parentheses)	1	28 (10.1)	28 (10.1)	43 (15.5)	20 (7.2)	20 (7.2)	27 (9.7)	42 (15.1)	20 (7.2)	21 (7.6)	25 (9.0)	26 (9.4)
	2	32 (11.5)	44 (15.8)	38 (13.7)	42 (15.1)	35 (12.6)	42 (15.1)	51 (18.3)	33 (11.9)	26 (9.4)	43 (15.5)	38 (13.8)
	3	94 (33.8)	141 (50.7)	139 (50.0)	152 (54.7)	162 (58.3)	107 (38.5)	122 (43.9)	95 (34.3)	117 (42.1)	162 (58.5)	100 (36.2)
	4	78 (28.1)	40 (14.4)	33 (11.9)	41 (14.7)	41 (14.7)	64 (23.0)	43 (15.5)	87 (31.4)	86 (30.9)	33 (11.9)	65 (23.6)
	5	46 (16.5)	25 (9.0)	25 (9.0)	23 (8.3)	20 (7.2)	38 (13.7)	20 (7.2)	42 (15.2)	27 (9.7)	14 (5.1)	47 (17.0)
Total		274	278	278	278	278	278	278	277	277	277	276
Mean Response		3.3	3.0	2.9	3.0	3.0	3.2	2.8	3.4	3.3	2.9	3.3
Median Response		3	3	3	3	3	3	3	3	3	3	3
# of Respondents Answering:												
Worse	1/2	60 (21.6)	72 (25.9)	81 (29.1)	62 (22.3)	55 (19.8)	69 (24.8)	93 (33.5)	53 (19.1)	47 (16.9)	68 (24.5)	64 (23.2)
Indifferent	3	90 (33.8)	141 (50.7)	139 (50.0)	152 (54.7)	162 (58.3)	107 (38.5)	122 (43.9)	95 (34.3)	117 (42.5)	162 (58.5)	100 (36.2)
Improved	4/5	124 (44.6)	65 (23.4)	58 (20.9)	64 (23.0)	61 (21.9)	102 (36.7)	63 (22.7)	129 (46.6)	113 (40.6)	47 (17.0)	112 (40.6)

improve. There would be some improvement in the speed of railways in quoting rates, but the availability of equipment on demand, terms and conditions of carriage, and the availability of through rates would not change significantly. Some deterioration would be expected in the extent of railway liability and the availability of routing alternatives and shippers expect their rate negotiating time and expense would increase.

Different categories of rail users have different expectations concerning the effects of a competitive Canadian rail transportation system. However, most firms have essentially positive expectations. As a small transborder shipper from Quebec comments:

> In our experience with U.S. rail deregulation we have had better access to competitive rail rates and services. We expect that deregulation in Canada would benefit shippers similarly.

2.8 Desired Extent of Railway Accountability

The view has been put forward that railways should be relieved of certain responsibilities in the event they are no longer permitted to collectively set rates. Nevertheless, shippers feel strongly that railways should remain responsible and accountable much as they currently are (question #10). As previously mentioned in regard to specific rate making instances, the majority of survey respondents feel that railways should continue to publish rates whether the status quo is maintained or if a deregulated or competitive rate-making environment is introduced. Similar or greater numbers of respondents consider that the railways should continue to submit to rate appeals under Section 23 of the National Transportation Act, be obliged to carry all freight offered (common carrier obligation), account to a body such as the Canadian Transport Commission on more than just safety matters, continue to provide interswitching services within a four-mile limit at no extra charge, and submit to rate prescriptions of the

Canadian Transport Commission in cases of proven shipper captivity (Section 278 of the Railway Act).

A small shipper from Quebec offers this prevalent justification for shippers' desire to see rates published in any event:

> The market in which we operate is very highly competitive so I have to know what my competitors are paying for rail services at all times.

A large domestic shipper from British Columbia further adds:

> We are of the belief that since railways are quasi-utilities, we should have the right to have access to their rates.

Continued accountability to the Canadian Transportation Commission on all matters figures very importantly in the thinking of all categories of respondents, although one large domestic shipper from the Prairies points out:

> The Canadian Transport Commission at present has the power to prescribe rates and to make decisions well beyond the degree to which they have exercised their power to date. Rather than looking to change legislation, we should be looking to make the CTC a more effective regulator.

Respondents consider that the railways should be obliged to carry all freight offered, whether the status quo continues or if there is a move toward deregulation. They also believe that railways should continue to provide interswitching services within the designated four-mile limit at no extra charge and some rail users state that increasing the limit to 10 miles or to within corporate metropolitan boundaries would go a long way to making railways more competitive.

TABLE 2.8

PERCENTAGE OF SHIPPERS FAVOURING THE RETENTION OF VARIOUS RAILWAY RESPONSIBILITIES (Question #10)

	Publish rates	Submit to Sec. 23 of N.T.A. Rate Appeals	Carry all freight offered	Account to CTC	Maintain status quo on interswitching	Submit to rate prescriptions Sec. 278 of Railway Act
All Firms	76.7	72.8	78.6	76.5	87.5	80.9
Wholesale Users (Freight Forwarders, Truckers, Steam Ship Lines	76.0	56.0	76.0	60.0	76.0	56.0
Retail Users (not including F.F.,Truckers,SSL)	76.8	74.4	78.9	78 1	88.7	83.4
By Volume of Rail Expenditure:						
Large	73.1	75.7	80.5	81.2	85.9	83.8
Small	82.1	68.2	75.9	69.4	90.1	76.6
By Orientation of Traffic:						
Shipper	75.7	73.5	79.9	75.6	88.4	82.0
Consignee	80.7	69.6	43.7	80.4	84.2	76.8
By Direction of Traffic:						
Domestic	77.2	69.6	75.6	74.0	85.7	77.0
Transborder	76.3	75.3	81.2	78.6	89.0	84.2
By Geographical Distribution:						
National	69.0	59.5	76.2	73.8	82.9	69.0
B.C.	79.6	83.7	79.6	81.6	93.9	91.8
Prairies	79.6	70.0	86.0	64.0	90.0	87.8
Ontario	80.2	79.7	78.0	84.0	84.1	86.1
Quebec	71.7	63.8	69.6	72.3	87.2	70.2
Maritimes	75.0	75.0	91.7	83.3	91.7	58.3

CHAPTER 3

ALTERNATIVE APPROACHES TO COLLECTIVE VERSUS COMPETITIVE RATE-MAKING

3.1 Introduction

While all Canadian users of rail transportation services are not of one mind on the various issues associated with collective versus competitive rail rate-making, there is a general consensus that a more competitive rail transportation industry is desirable. The direction of changes suggested by rail users to bring about a more competitive environment is the subject of this chapter.

Within the regulatory reform debate on railway pricing in Canada, section 32(2) of the Transport Act and section 279 of the Railway Act are thought of as the main legislative vehicles which allow collective railway rate-making. The removal or continuation of railways' right to set prices jointly would therefore be primarily contingent upon the retention or modification of these pieces of legislation. In this regard, several alternatives reflecting varying degrees of change to current legal arrangements were constructed for selection by shippers as an appropriate course of action.

3.2 Agreed Charges: Open versus Confidential Arrangements

An important aspect of the discussion on collective rate-making arises from transborder shippers' experiences in negotiating confidential rate agreements or "contracts" with American carriers. The rough equivalent of a contract in Canada is an "agreed charge" whereby special rates are provided for guaranteed volumes. A major difference is that agreed charges are

published and shippers outside the agreement may, upon application, take advantage of the rate in question.

Survey respondents were asked whether or not their firms are a party to any agreed charges in Canada or contract in the United States and what percentage of their traffic moves at rates provided for therein (question #8). They were further asked whether or not they think that current practices of mandatory railway agreement, publication and free shipper access to agreed charges should be continued or if individual shippers and carriers should have the right to negotiate independently exclusive terms in rate contracts.

Table 3.1 shows that approximately 55% of all firms interviewed report participation in agreed charges. The amount moved represents approximately 22% of domestic rail freight reported by survey respondents. Just under a quarter of survey respondents have contracts with US carriers filed with the Interstate Commerce Commission. Firms report their contract freight as accounting for 30% of their total inbound and outbound transborder rail movements.

Users were asked (question #8(e)) which of two statements more closely reflects their views on agreed charges:

- The current practices of mandatory railway agreement, publication, and free shipper access to agreed charges should be continued.

- Individual shippers and carriers should have the right to negotiate exclusive and confidential terms in rate contracts.

While these two alternatives are not necessarily mutually exclusive, the first is taken as a proxy for maintaining the status quo

TABLE 3.1

PARTICIPATION IN AGREED CHARGES AND CONTRACTS (Question #8)

	AGREED CHARGES				U.S. CONTRACTS			
	Percentage of Firms Partici-pating	Rail Freight Costs ($ millions)	Freight Under Agreed Charges ($ millions)	Percent-age	Percentage of Firms Partici-pating	Rail Freight Costs ($ millions)	Freight Under Contracts ($ millions)	Percent-age
All Firms	55.3	1,823	408	22.4	23.5	1,461	436	29.9
Wholesale Users (Freight Forwarders, Truckers, Steam Ship Lines	20.0	82	12	14.6	80	25	5	21.5
Retail Users (not including F.F., Truckers, SSL)	58.8	1,741	396	22.7	25.0	1,436	431	30.0
By Volume of Rail Expenditure:								
Large	62.4	1,797	400	22.2	33.5	1,451	435	30.0
Small	44.6	26	8	30.8	8.2	9	1	12.7
By Orientation of Traffic:								
Shipper	55.6	1,658	377	22.7	22.9	1,357	379	27.9
Consignee	54.4	165	31	18.7	25.9	104	57	55.0
By Direction of Traffic:								
Domestic	47.2	658	122	18.5	7.2	1	0	10.1
Transborder	61.9	1,165	286	24.5	36.8	1,460	436	29.9
By Geographical Distribution:								
National	66.7	379	51	13.4	12.5	179	42	23.5
B.C.	79.6	295	133	45.1	45.8	237	111	46.9
Prairies	32.0	634	61	9.6	24.0	356	23	6.4
Ontario	59.8	359	117	32.7	20.0	422	227	53.8
Quebec	36.2	125	33	26.7	14.9	209	28	13.6
Maritimes	58.3	31	12	39.6	25.0	57	5	8.5

on agreed charges, and the second is viewed as a proxy for desired change. The preferences of different categories of firms with respect to alternatives on agreed charges is shown in Table 3.2(a); Table 3.2(b) presents the gross revenues, transportation costs and rail expenditures of firms favouring either of the two alternatives.

TABLE 3.2(a)

USERS' VIEWS ON ALTERNATIVE APPROACHES
TO AGREED CHARGE CONTRACTS (Question #8e)

	Continue Current Practice	Allow Negotiation of Independent Terms in Closed Contracts
All Firms	47.5%	52.5%
Wholesale Users (Freight Forwarders, Truckers, Steam Ship Lines)	64.0	36.0
Retail Users (not including F.F., Truckers, SSL)	45.8	54.2
By Volume of Rail Expenditure:		
Large	46.4	53.6
Small	49.1	50.9
By Orientation of Traffic:		
Shipper	47.7	52.3
Consignee	46.4	53.6
By Direction of Traffic:		
Domestic	48.4	51.6
Transborder	46.8	53.2
By Geographical Distribution:		
National	40.5	59.5
B.C.	61.7	38.3
Prairies	46.9	53.1
Ontario	46.3	53.7
Quebec	50.0	50.0
Maritimes	16.7	83.3

TABLE 3.2(b)

GROSS REVENUES, TRANSPORT COSTS AND RAIL COSTS OF FIRMS FAVOURING ALTERNATIVE APPROACHES TO AGREED CHARGES/CONTRACTS

	# of Firms	% of Responses	Gross Revenues $ (%)	Transport Costs $ (%)	Rail Costs $ (%)
Continue Current Practices	132	47.5	36,371 (30.0)	2,179 (40.6)	1,419 (43.8)
Negotiate Independent Terms	146	52.5	84,922 (70.0)	3,192 (59.4)	1,823 (56.2)

Although individual survey respondents are quite evenly divided as to whether the status quo on agreed charges should be maintained, firms accounting for 70% of reported total gross revenues favour confidential terms in exclusive contracts. Therefore the views of firms accounting for the bulk of economic activity reported in this survey indicate that changes to current practices of mandatory railway agreement, and free shipper access are in order.

3.3 Alternative Arrangements for an Appropriate Degree of Railway Competitiveness

Divisions of opinion exist concerning the extent of collective rate-making or the degree of railway competitiveness which is most desirable for users and carriers. On the basis of positions taken by interested parties, several options and variations were drawn up to solicit railway users' views. Respondents were asked (question #14) to rate on a one to five scale - one meaning least desirable and five meaning most desirable - the following options or alternatives for collective/competitive rate-making which would ensure an adequate and appropriately priced level of rail service to shippers in Canada. Options 4, 5, and 8 were the most favoured among respondents.

1. Maintain status quo on 279 and 32(2)

2. No amendment to 279, although 32(2) should be made permissive rather than compulsory;

3. Collective rate-making may continue in all cases except express services and local commodity single line rates;

4. Implement new regulations pursuant to 279 allowing collective rate setting only on through interline (or joint) rates, and collective agreements on service standards and freight classification, all of which would be subject to CTC review and/or public inquiry;

5. Implement regulations as above with the provision of making all such agreements subject to the Combines Act if found to prevent new sources of competition or designed to unduly lessen competitive alternatives;

6. That 279 and 32(2) be amended to allow for only collective arrangements explicitly called for by shipper (i.e freight buying) groups and that the right of independent action for any railroad be guaranteed;

7. Section 32(2) should be made permissive and any joint railway consultation should be initiated by shippers except in the case of special arrangement tariffs and agreed charges;

8. Appropriate legislative amendments should be made to ensure collective rate making is allowed in cases of joint, or interline, rates requiring the use of more than one carrier. Railways would continue to be responsible for publishing rates, Section 23 of the National Transportation Act rate appeals, accountability to the CTC and other current responsibilities;

9. Appropriate legislative amendments creating a deregulated environment with railways relieved of their responsibilities of publishing rates, Section 23 of the National Transportation Act rate appeals, accountability to the Canadian Transport Commission, etc...

Table 3.3(a) presents the gross revenues, transportation costs, and rail expenditures of firms favouring each of the nine options. Table 3.3(b) presents average ratings given to the nine options by the various classifications of firms. (Ratings of different effects experienced under U.S. rail deregulation and expected effects of Canadian rail deregulation by survey respondents favouring each of the nine options are provided in Appendix C.)

TABLE 3.3(a)

GROSS REVENUES, TRANSPORT COSTS AND RAIL COSTS OF RESPONDENTS FAVOURING THE VARIOUS OPTIONS ON COLLECTIVE VERSUS COMPETITIVE RATE-MAKING (Question #14)

	Gross Revenues	Transport Costs	Rail Costs
1. Maintain Status Quo on 279 and 32(2)	21,850	1,417	880
2. No Change to 279 and 32(2) to be Permissive	34,511	1,754	1,005
3. Limited Restrictions on Collective Ratemaking	25,341	1.147	643
4. Collective Action on Interline Rates, Subject to CTC	63,084	2,530	1,413
5. Collective Action in Interline Rates, Subject to Combines Act	54,916	2,071	1,216
6. Bilateral Collectivity with Guaranteed Independent Action	44,951	1,753	1,091
7. Joint Railway Consultation Only as Initiated by Shippers	44,674	1,574	1,003
8. Collective Ratemaking on Interline Rates, Railway Responsibilities as Status Quo	57,948	2,398	1,416
9. Free and Open Competition	23,459	756	531

TABLE 3.3(b)

RATINGS* OF ALTERNATIVE APPROACHES TO COLLECTIVE VERSUS COMPETITIVE RAILWAY RATEMAKING (Question #14)

	Maintain status quo on 279 & 32(2)	No Change to 279; 32(2) to be permissive	Limited restrictions on collective ratemaking	Collective action on interline rates; subject to CTC review	Collective action on interline rates; subject to Combines Act	Bilateral collectivity with guaranteed independant action	Joint railway consultation only as initiated by shippers	Collective action on interline rates; railway responsibility as per status quo	Free and open competition
All Firms	2.61	2.86	2.74	3.27	3.24	3.09	3.15	3.35	1.97
Wholesale Users (Freight Forwarders, Truckers, Steam Ship Liners	3.04	3.20	2.96	3.00	3.00	2.96	3.04	2.92	1.60
Retail Users (not including F.F., Truckers, SSL)	2.57	2.83	2.72	3.30	3.26	3.11	3.16	3.39	2.01
By Volume of Rail Expenditure:									
Large	2.58	2.80	2.70	3.36	3.31	3.05	3.09	3.37	1.92
Small	2.67	2.96	2.81	3.14	3.14	3.16	3.24	3.32	2.05
By Orientation of Traffic:									
Shipper	2.50	2.84	2.67	3.31	3.24	3.10	3.14	3.36	1.98
Consignee	3.09	2.95	3.02	3.13	3.25	3.05	3.20	3.30	1.95
By Direction of Traffic:									
Domestic	2.68	2.93	2.87	3.22	3.18	3.12	3.14	3.26	1.98
Transborder	2.56	2.81	2.64	3.32	3.29	3.07	3.16	3.42	1.97
By Geographical Distribution:									
National	2.63	2.98	2.54	3.41	3.34	3.00	3.27	3.44	1.90
B.C.	2.69	2.65	2.86	3.40	3.40	2.98	3.17	3.64	1.94
Prairies	2.37	2.92	2.39	3.16	2.92	3.33	3.33	3.35	2.04
Ontario	2.69	2.83	2.73	3.22	3.32	3.21	3.15	3.20	1.98
Quebec	2.81	2.96	3.11	3.15	3.15	2.83	2.87	3.19	2.02
Maritimes	2.00	2.92	3.08	3.58	3.42	3.17	3.08	3.58	1.92

* A rating of one means least desirable alternative and a rating of five means most desirable alternative.

Further analysis of the ratings of the various alternatives was undertaken to determine the strength of rail users' preferences for an appropriate course of action. The results summarized in Tables 3.4 and 3.5 support two major findings:

1. The least popular courses of action among rail users are the extreme positions represented by Option 1 - maintaining the status quo - and Option 9 - full deregulation.

2. There is a consensus in favour of substantially limiting the railways' freedom to price collectively. Strongest support is in favour of Options 4, 5, and 8 which limit collective action to joint rates. Next strongest support is to limit the right to collective rate-making to cases where shippers request it, that is, Options 6 and 7.

Options 1 and 9 received the highest number of ratings at the least desirable end of the scale. Out of 279 respondents, 202 gave a rating of either 1 or 2 for Option 9. With respect to Option 1, 149 out of 277 responded in a similar fashion. Options 8 and 5 were the only alternatives where more than half of the respondents gave high ratings (a 4 or 5) at the most desirable end of the scale. Option 8 received 148 4 or 5 ratings, while Option 5 received 140. Option 4 was not far behind with 131 votes. The preference ranking of the 9 alternatives in terms of the number of respondents who gave ratings of 4 or 5 for each option is summarized in the all respondents column of Table 3.6.

Surveyed rail users' preference for the various alternatives set out in item #14 of the survey questionnaire is also revealed by examining a measure of respondents' second choice.

TABLE 3.4

DISTRIBUTION OF RATINGS ACCORDING TO THE SCALE OF PREFERENCE
(1 = Least Desirable; 5 = Most Desirable)

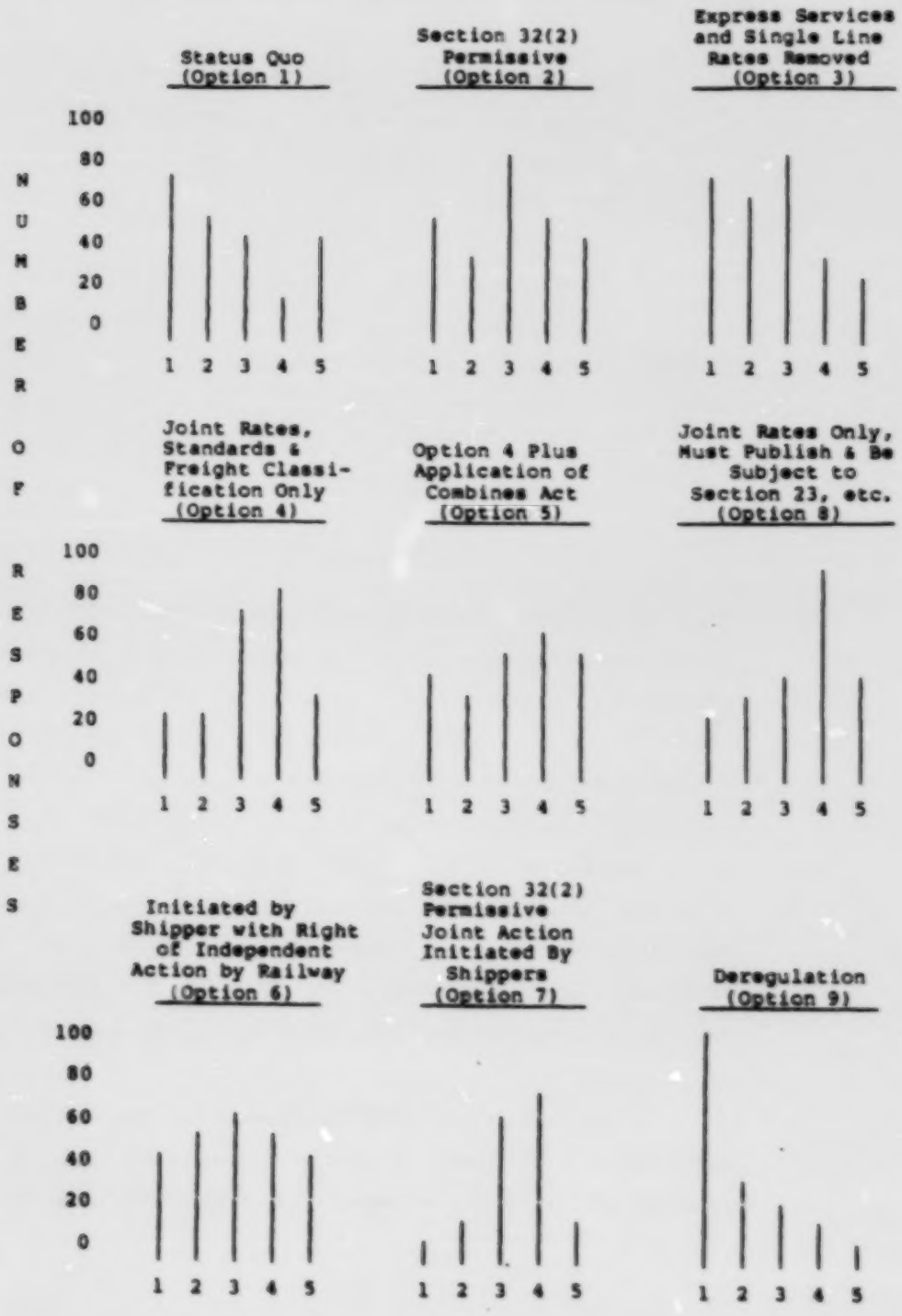
Status Quo (Option 1)
Section 32(2) Permissive (Option 2)
Express Services and Single Line Rates Removed (Option 3)
Joint Rates, Standards & Freight Classification Only (Option 4)
Option 4 Plus Application of Combines Act (Option 5)
Joint Rates Only, Must Publish & Be Subject to Section 23, etc. (Option 8)
Initiated by Shipper with Right of Independent Action by Railway (Option 6)
Section 32(2) Permissive Joint Action Initiated By Shippers (Option 7)
Deregulation (Option 9)
NUMBER OF RESPONSES
100
80
60
40
20
0
1 2 3 4 5

TABLE 3.5

RELATIVE PREFERENCE OF OPTIONS: ALL SURVEY RESPONDENTS
(Scale of Preference: 1 = Least Desirable; 5 = Most Desirable)

		Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Option 7	Option 8	Option 9
# Respondents answering: (Percentages in Parentheses)	1	83 (29.9)	58 (20.7)	63 (22.5)	34 (12.2)	50 (17.9)	42 (15.1)	27 (9.7)	33 (11.9)	147 (52.7)
	2	66 (23.8)	50 (17.9)	55 (19.6)	35 (12.5)	39 (13.9)	46 (16.5)	54 (19.4)	39 (14.0)	55 (19.7)
	3	50 (18.1)	81 (28.9)	87 (31.1)	79 (28.3)	50 (17.9)	77 (27.7)	79 (28.4)	58 (20.9)	34 (12.2)
	4	31 (11.2)	55 (19.6)	41 (14.6)	83 (29.7)	74 (26.5)	70 (25.2)	86 (30.9)	94 (33.8)	23 (8.2)
	5	47 (17.0)	36 (12.6)	34 (12.1)	48 (17.2)	66 (23.6)	43 (15.5)	32 (11.5)	54 (19.4)	20 (7.2)
Total		277	280	280	279	279	278	278	278	279
Mean Response		2.6	2.9	2.7	3.3	3.2	3.1	3.2	3.3	2.2
Median Response		2	3	3	3	4	3	3	4	1
# Respondents Answering:										
4 or 5		78 (28.2)	91 (32.2)	75 (26.7)	131 (46.9)	140 (50.1)	113 (40.7)	118 (42.4)	148 (53.2)	43 (15.4)
3		50 (18.1)	81 (28.9)	87 (31.1)	79 (28.3)	50 (17.9)	77 (27.7)	79 (28.4)	58 (20.9)	34 (12.2)
1 or 2		149 (53.7)	108 (38.6)	118 (42.1)	69 (24.7)	89 (31.8)	88 (31.6)	81 (29.1)	72 (25.9)	202 (72.4)

Options: 1 - Status Quo
2 - Section 32(2) Permissive
3 - Express Services and Single Line Rates Removed
4 - Joint rates, Standards and Freight Classification Only
5 - Option 4 - Plus Application of Combines Act
6 - Initiated by Shipper with Right of Independent Action by Railway
7 - Section 32(2) Permissive, Joint Action Initiated by Shipper
8 - Joint Rates Only, Must Publish and be Subject to s. 23, etc.
9 - Deregulation

TABLE 3.6

RANKING OF OPTIONS ACCORDING TO THE NUMBER OF RESPONDENTS GIVING RATINGS OF "4" or "5"

Rank	All Respondents		Respondents Answering "4" or "5" to Options 1, 2, 3		Respondents Answering "4" or "5" to Options 6 & 7		Respondents Answering "4" or "5" to Option 9	
	Option Number	# of "4" or "5" Ratings	Option Number	# of "4" or "5" Ratings	Option Number	# of "4" or "5" Ratings	Option Number	# of "4" or "5" Ratings
1	8	148	8	99	8	159	5	22
2	5	140	5	95	5	146	7	22
3	4	131	4	90	4	143	6	20
4	7	118	7	82	2	68	8	19
5	6	113	6	66	3	46	4	15
6	2	91	9	23	9	42	3	10
7	1	78			1	34	2	8
8	3	75					1	5
9	9	43						

Table 3.6 presents this information by showing the ranking for the options for two subsets of respondents: those who answered "4" or "5" for Options 1, 2 and 3 and those who answered "4" or "5" for Options 6 and 7. Second choice is revealed insofar as respondents who reacted voted strongly in favour of limited change and shipper-initiated collective railway pricing, felt about the other options. Table 3.6 shows that the rank order of these users' second preference is the same as the first preference of other users. Options 8, 5, and 4 which propose significant limitations on collective pricing are the most preferred second choice, with Options 7 and 6 (shipper initiated collective action) next in preference.

Another angle from which the relative preference of the various options may be viewed is provided in Table 3.7.

TABLE 3.7

RANKING OF OPTIONS ACCORDING TO THE NUMBER OF RESPONDENTS GIVING RATINGS OF "4" or "5" RELATIVE TO RATINGS OF "1" or "2"

Rank	Options	Ratios "4"-"5"/"1"-"2"
1	8	2.05
2	4	1.89
3	5	1.57
4	7	1.46
5	6	1.28
6	2	0.84
7	3	0.64
8	1	0.52
9	9	0.21

This table demonstrates the extent to which ratings in favour of a particular option are offset by ratings against it. The resulting ratios yield a preference ranking which is substantially similar although not identical to that found in Table 3.6. Once again, the highest rated options in the survey are those favouring substantial change from the present regime.

In view of the survey results reported herein it is concluded that there is a consensus among rail users surveyed for a significant limitation on the ability of the railways to set prices collectively.

Appendix A

SURVEY METHODOLOGY

A.1 Introduction

The purpose of this survey was to learn the views and experiences of Canadian users of railway transportation services regarding certain pricing practices of Canadian railways. Specifically, the survey sought to determine whether or not shippers and consignees have had problems related to the collective pricing behaviour of railways and the extent to which appropriate changes to relevant legislation might remove or alleviate these problems. The survey was largely oriented toward obtaining users' perceptions relating to current legislation - specifically Section 279 of the Railway Act and Section 32(2) of the Transport Act - which is thought of as providing much of the legal basis for collective rail pricing.

Due to the large number of issues and the wide scope of opinion involved on the subject of collective railway pricing, it was determined that meaningful information from railway users would be best obtained through the use of a formal, structured questionnaire. For the purpose of refining the topics to be addressed in the questionnaire, consultations were held with selected informed traffic managers and representatives of the railway, trucking, freight forwarding and steamship line industries as well as officials of federal and provincial government departments having an interest in these matters. Research work and preliminary submissions pertaining to the public/private sector review committee known as the Ad Hoc Committee of Shippers, Carriers, Shipper Associations, Provinces and the Federal Government on Railway Collective Rate-Making were also reviewed. This consultation and research process importantly shaped the substance of the questionnaire.

A.2 Population Parameters and the Selection of Survey Participants

The population about and from which data was collected consists of businesses domiciled in Canada participating in shipping and/or receiving goods which are transported by railways. The most complete lists of firms using rail transport are of course the property of CN Rail and CP Rail. Both companies were approached to enlist their support and cooperation which both kindly provided.

After extensive consultations with the two carriers and in consideration of the survey's objectives, several qualifying parameters for including firms in the universe were fixed:

(a) the elimination of firms paying less than $10,000 in annual rail freight charges to either railroad because these are considered to be irregular users and therefore not likely to be interested in the issues at hand.

(b) the classification of remaining firms into size categories in accordance with their annual freight payments to individual railways. (A visual review of interim survey responses indicated that the initial sampling classifications of small ($10,000 - $250,000) medium ($250,000 - $1,000,000) and large ($1,000,000 +) would be more appropriately handled in the analysis reclassified simply as small ($1,000,000 or less) and large ($1,000,000 +).

(c) the additional classification of firms into transborder versus domestic orientations on the basis of whether they pay more or less than $50,000 in transborder rail costs. (Again, a visual analysis of early responses indicated that this definition level should be revised

to $100,000 for analytical purposes and to reflect the reality of shippers' rail transportation activities.)

(d) the non-duplication of names of firms having more than one office or shipping/receiving station.

On the basis of the above parameters, CN Rail and CP Rail identified a joint total of 4,592 corporate entities for sampling purposes.

The list of firms was organized in a manner which separately identified truckers, freight forwarders, and steamship lines in order to ensure their inclusion in the sample. Proportional representation of firms in geo-economic regions - British Columbia, Prairies, Ontario, Quebec and Maritimes - was determined would be best insured through the simple random sampling of all firms listed in alphabetical order.

The desire for the most accurate possible survey results in light of given time and budget constraints suggested that approximately 300 completed questionnaires would be appropriate. To account for erroneously sampled firms due to business failure, lack of current rail involvement and possible response refusals, a sample 340 firms was selected from each railway's list with the assistance of random number tables. It was expected that commonality of railway customers would result in a major paring down of the 640 names of firms but that further random sampling within the 640 firms would be undertaken with a view to finally arriving at approximately 300 responses. Ultimately, questionnaires were mailed to 412 unduplicated individual corporate entities.

A.3 Survey Procedures and Response Rate

Following initial random selection of participants, each railway was asked to provide addresses and names of contacts at each firm. The questionnaire along with a covering letter, explanatory information, definitions, and quotes from relevant legislation were forwarded to each invididual. Within a short period, prospective respondents were contacted by interviewers by telephone to record responses and comments on a confidential basis or to arrange an appointment to do so.

In all cases the questionnaire was administered on a voluntary basis to firms' traffic managers or other such persons having senior responsibility for organizing a firm's railway transportation requirements. Completed questionnaires were edited by the consulting firm's senior staff and coded and keypunched for computerized analysis.

Participants reacted favourably to the opportunity to express their views on this timely topic. Out of the 412 firms selected, 300 agreed to participate. However, as is the case in any large-reach survey, even the most diligent pre-examination of potential survey respondents' qualifications for participating in the survey does not preclude the erroneous administration of the questionnaire to selected respondents for whom the survey is out-of-scope.

The elimination of firms for various reasons (out-of-scope, US-domiciled operations and respondent, questionnaire received by both a parent and a subsidiary but yielding a single response, etc...) resulted in what is considered to be a true sample of 375 firms. Applying the above-mentioned elimination factors proportionally to the total population - the true population was reduced to 3,318 firms. The survey can then be thought of as having consulted 11% of unique in-scope individual railway customers.

The survey is considered to have achieved an overall effective response rate of 80% (that is, 300 of 375). Of the 300 firms which responded, the data of 14 sampled firms are included in the data of their sampled parent companies. Also, four firms replied too late to have their views incorporated into the computerized analysis. The results reported herein are based therefore on 282 unique data records.

Throughout the report, survey responses have been grouped in different categories, or strata, for analysis. The principal strata have to do with the geographic location of firms, whether they are large or small users of rail transportation, whether the firms are primarily shippers or consignees and whether firms' traffic orientation is primarily domestic or transborder. In many instances, details on the opinions of the firms in these categories are discussed whenever they lend additional insights into the issues explored.

While possible, the establishment of the precise representativeness of the surveyed firms is a difficult task considered to be outside the scope of the project's time and budget limitations. However, an example of the survey's degree of accuracy has been estimated based on the response to a question concerning two alternative approaches to agreed charges. Simply, the proportion of respondents favouring the status quo on agreed charges is estimated to be 47.5% plus or minus 5% with 92% confidence. It must be borne in mind however that because this is an opinion survey, there is no statistically acceptable way of identifying a cut-off point beyond which small differences of opinion can be disregarded. Every effort has been made to present the data in an objective manner which, with these caveats in mind, allows readers to exercise their own judgement on the issues discussed in the report.

APPENDIX B

REVENUE AND TRANSPORTATION COST INFORMATION BY RESPONDENT CATEGORY

TABLE B.1

REVENUE AND TRANSPORTATION COSTS* BY RESPONDENT CATEGORY

	Gross Revenues	Total Transport Costs	Total Rail Costs	Rail Costs as a % of Transportation Costs	Captive to Rail	% Captive to Rail	Choice of Rail	% Choice of Rail	Captive to CN	% Captive to CN	Captive to CP	% Captive to CP
All Firms	121,955	5,451	3,284	60.2	2,346	43.0	1,323	40.4	1,063	32.4	765	23.3
Wholesale Users	918	219	106	48.6	92	42.1	81	76.0	24	22.8	22	20.9
Retail Users	121,037	5,232	3,177	60.7	2,254	43.1	1,247	39.2	1,039	32.7	743	23.4
By Volume of Trade:												
Large	114,095	5,205	3,248	62.4	2,310	44.4	1,313	40.4	1,055	32.5	758	23.3
Small	7,860	246	35	14.3	36	14.7	15	41.6	8	22.4	7	20.8
By Orientation of Trade:												
Shipper	104,865	4,968	3,015	60.7	2,115	42.6	1,212	40.2	957	31.7	712	23.6
Consignee	17,091	482	269	55.8	231	47.8	116	43.1	106	39.6	53	19.6
By Direction of Trade:												
Domestic	22,530	1,152	658	57.2	572	49.7	184	27.9	219	33.3	229	34.9
Transborder	99,426	4,299	2,625	61.1	1,774	41.3	1,144	43.6	844	32.1	535	20.4
By Geographical Distribution:												
National	29,223	1,142	558	48.9	401	35.2	260	46.5	241	43.1	59	10.6
B.C.	12,390	647	533	82.3	433	67.0	199	37.3	191	35.9	190	35.6
Prairies	21,074	1,352	990	73.2	728	53.9	361	36.5	284	28.6	299	30.2
Ontario	41,806	1,497	780	52.1	460	30.8	398	51.1	176	22.5	108	13.8
Quebec	15,543	665	335	50.3	238	35.8	92	27.5	108	32.4	103	30.7
Maritimes	1,920	148	88	59.4	84	56.9	18	20.0	63	72.1	7	7.9

* in $ millions

TABLE B.2

DETAILED TRANSPORTATION COSTS BY RESPONDENT CATEGORY
($ MILLIONS)

a) ALL FIRMS

	Transborder	Domestic	Total	Percent
Inbound - Rail	236	423	659	12.1
Truck	155	363	518	9.5
Other	46	108	153	2.8
Total	437	894	1,331	24.4
Outbound - Rail	1,224	1,400	2,624	48.1
Truck	362	1,034	1,396	25.6
Other	36	64	100	1.8
Total	1,622	2,498	4,120	75.6
Total Transportation Cost	2,059	3,392	5,451	100.0

(b) WHOLESALE USERS

	Transborder	Domestic	Total	Percent
Inbound - Rail	15	38	53	24.3
Truck	7	45	52	23.6
Other	-	1	1	0.3
Total	22	84	105	48.3
Outbound - Rail	10	44	53	24.3
Truck	6	48	54	24.9
Other	-	6	6	2.6
Total	16	97	113	51.7
Total Transportation Cost	38	181	219	100.0

(c) RETAIL USERS

	Transborder	Domestic	Total	Percent
Inbound - Rail	221	385	606	11.6
Truck	148	318	466	8.9
Other	46	107	153	2.9
Total	415	810	1,225	23.4
Outbound - Rail	1,215	1,356	2,571	49.1
Truck	355	986	1,342	25.6
Other	36	58	94	1.8
Total	1,606	2,401	4,007	76.6
Total Transportation Cost	2,021	3,211	5,232	100.0

BY VOLUME OF RAIL EXPENDITURES:

(d) LARGE FIRMS

	Transborder	Domestic	Total	Percent
nbound - Rail	233	415	648	12.5
Truck	137	295	433	8.3
Other	45	106	151	2.9
Total	415	816	1,231	23.7
utbound - Rail	1,218	1,382	2,600	50.0
Truck	342	941	1,283	24.6
Other	33	57	90	1.7
Total	1,593	2,380	3,974	76.3
otal Transportation Cost	2,008	3,197	5,205	100.0

(e) SMALL FIRMS

	Transborder	Domestic	Total	Percent
nbound - Rail	3	8	11	4.6
Truck	18	67	85	34.6
Other	1	2	3	1.2
Total	22	77	99	40.4
utbound - Rail	6	18	24	9.7
Truck	20	93	113	46.0
Other	3	7	10	3.9
Total	28	118	146	59.6
otal Transportation Cost	50	195	246	100.0

BY ORIENTATION OF TRAFFIC:

(f) SHIPPER

	Transborder	Domestic	Total	Percent
nbound - Rail	158	310	468	9.4
Truck	124	291	415	8.3
Other	16	90	106	2.1
Total	298	691	989	19.9
utbound - Rail	1,199	1,347	2,546	51.3
Truck	338	1,001	1,339	26.9
Other	35	59	94	1.9
Total	1,572	2,407	3,979	80.1
otal Transportation Cost	1,870	3,098	4,968	100.0

(g) CONSIGNEE

	Transborder	Domestic	Total	Percent
Inbound - Rail	78	113	191	39.7
Truck	31	72	103	21.3
Other	29	18	47	9.8
Total	139	203	341	70.8
Outbound - Rail	25	52	78	16.1
Truck	24	34	57	11.9
Other	1	5	6	1.2
Total	50	91	141	29.2
Total Transportation Cost	189	293	482	100.0

BY DIRECTION OF TRAFFIC:

(h) DOMESTIC USERS

	Transborder	Domestic	Total	Percent
Inbound - Rail	1	67	68	5.9
Truck	20	101	121	10.5
Other	5	33	38	3.3
Total	26	200	226	19.7
Outbound - Rail	0	591	591	51.3
Truck	15	292	306	26.6
Other	6	22	28	2.4
Total	20	905	925	80.3
Total Transportation Cost	46	1,105	1,152	100.0

(i) TRANSBORDER USERS

	Transborder	Domestic	Total	Percent
Inbound - Rail	236	356	592	13.8
Truck	135	262	396	9.2
Other	41	75	116	2.7
Total	411	693	1,104	25.7
Outbound - Rail	1,224	809	2,033	47.3
Truck	347	742	1,089	25.3
Other	30	42	72	1.7
Total	1,601	1,593	3,195	74.3
Total Transportation Cost	2,012	2,287	4,299	100.0

BY GEOGRAPHICAL DISTRIBUTION:

(j) NATIONAL USERS

	Transborder	Domestic	Total	Percent
nbound - Rail	35	104	139	12.2
Truck	32	100	132	11.6
Other	10	69	79	6.9
Total	77	273	350	30.7
utbound - Rail	144	275	419	36.7
Truck	62	278	340	29.7
Other	4	29	33	2.9
Total	209	582	791	69.3
otal Transportation Cost	287	855	1,142	100.0

(k) BRITISH COLUMBIA USERS

	Transborder	Domestic	Total	Percent
nbound - Rail	1	49	51	7.8
Truck	3	20	23	3.5
Other	0	1	1	0.2
Total	4	70	74	11.5
tbound - Rail	236	246	482	74.5
Truck	33	45	78	12.1
Other	3	9	12	1.9
Total	272	301	573	88.5
tal Transportation Cost	276	371	647	100.0

(l) PRAIRIE USERS

	Transborder	Domestic	Total	Percent
bound - Rail	42	77	118	8.7
Truck	17	44	61	4.5
Other	1	3	4	0.3
Total	59	124	183	13.5
tbound - Rail	315	557	872	64.5
Truck	16	279	295	21.9
Other	0	2	2	0.1
Total	331	838	1,169	86.5
tal Transportation Cost	390	962	1,352	100.0

(n) ONTARIO USERS

	Transborder	Domestic	Total	Percent
Inbound - Rail	138	132	270	18.0
Truck	97	108	205	13.7
Other	22	28	51	3.4
Total	258	268	526	35.2
Outbound - Rail	283	227	510	34.1
Truck	95	331	426	28.4
Other	16	19	35	2.3
Total	393	577	970	64.8
Total Transportation Cost	652	845	1,497	100.0

(n) QUEBEC USERS

	Transborder	Domestic	Total	Percent
Inbound - Rail	19	47	66	9.9
Truck	4	67	70	10.6
Other	12	6	19	2.8
Total	35	119	154	23.2
Outbound - Rail	191	78	269	40.4
Truck	152	81	234	35.1
Other	3	5	8	1.2
Total	346	165	511	76.8
Total Transportation Cost	381	284	665	100.0

(o) MARITIME USERS

	Transborder	Domestic	Total	Percent
Inbound - Rail	1	15	16	10.6
Truck	2	24	26	17.7
Other		0	0	0.3
Total	3	39	42	28.5
Outbound - Rail	56	16	72	48.8
Truck	4	19	23	15.6
Other	10		10	7.1
Total	71	35	106	71.5
Total Transportation Cost	74	75	148	100.0

TABLE B.3

DISTRIBUTION OF SURVEYED FIRMS' SHIPPING/RECEIVING STATIONS
BY TYPE OF TRACKAGE ACCESS

	Joint CN/CP Trackage	CN Rail Only	CP Rail Only	CN/CP Inter-switch	No Rail Access	Other Canadian Railway	U.S. Railway	Joint CN/Other	Joint CP/Other	Total
All Firms	366	1192	811	453	786	126	30	31	12	3807
Wholesale Users	209	51	22	24	24	84	-	2	2	209
Retail Users	315	1170	787	429	702	126	28	29	12	3598
By Volume of Rail Expenditure:										
Large	271	1108	754	384	650	106	30	26	9	3338
Small	95	84	57	69	136	20	-	5	3	469
By Orientation of Traffic:										
Shipper	313	1111	751	409	732	122	26	25	9	3498
Consignee	53	81	60	44	54	4	4	6	3	309
By Direction of Traffic:										
Domestic	147	277	155	146	330	48	-	8	2	1113
Transborder	219	915	656	307	456	78	30	23	10	2694
By Region:										
National	115	165	70	186	235	21	11	5	-	808
B.C.	53	1881	123	42	98	63	9	8	9	585
Prairies	55	604	483	89	67	26	1	4	-	1329
Ontario	74	129	77	108	262	13	6	14	3	686
Quebec	65	86	54	19	88	3	3	-	-	318
Maritimes	4	27	4	9	37	-	-	-	-	81

TABLE B.4

RESPONDENTS' GROSS REVENUES AND TRANSPORT COSTS
($ MILLIONS)

REVENUE RANGE	Number of Firms	% of Firms	Gross Revenues*	% of Gross Revenues	Transport Costs*	% Total Transport Costs
Less than $1M	5	1.8	3	-	1	-
$ 1M to $ 5M	16	5.7	40	-	9	0.2
$ 5M to $ 25M	60	21.4	900	0.7	347	6.4
$ 25M to $ 50M	43	15.4	1,613	1.3	183	3.4
$ 50M to $100M	40	14.3	3,000	2.5	367	6.7
$100M to $250M	43	15.4	7,525	6.2	734	13.5
$250M to $500M	31	11.1	11,625	9.5	803	14.7
$500M to $1.0B	15	5.4	11,250	9.2	669	12.3
$1.0B to $2.5B	17	6.1	29,750	24.4	955	17.5
$2.5B to $5.0B	5	1.8	18,750	15.4	403	7.4
$5.0B and over	5	1.8	37,500	30.7	974	17.9
TOTAL	280	100	121,955	100	5446	100

Note: Mean values have been assigned to the Revenue ranges identified in the table. For example, a firm which reports its revenue to be between $1M to $5M is assumed to have a revenue of $3.0M.

TABLE 8.3

TOTAL TRANSPORT COSTS BY TYPE OF GOODS
($ millions)

	Inbound		Outbound		Total Transport Costs	Percentage of all Transport Costs
	Transborder	Domestic	Transborder	Domestic		
Agricultural Products	28	98	5	106	237	4.5
Forestry Resources	1	72	-	-	73	1.4
Mineral Resources and Mining	121	186	307	293	907	17.0
Crude Petroleum & Natural Gas	4	82	15	113	214	4.0
Foods Products	3	7	48	208	266	5.0
Beverage Products	-	-	7	1	8	0.2
Tobacco Products	-	-	-	9	9	0.2
Rubber Products	-	-	-	2	2	-
Plastic Products	-	-	1	23	24	0.5
Furniture & Fixtures	-	-	-	3	3	0.1
Forest Products (incl. Pulp & Paper)	5	46	625	221	897	16.9
Primary Metals	8	19	155	189	371	7.0
Fabricated Metal	14	11	8	21	54	1.0
Machinery (except Electrical)	6	29	14	13	62	1.2
Transport Equipment	139	40	154	89	422	7.9
Electrical & Electronic Products	4	2	1	25	32	0.6
Non-Metallic Mineral Products	40	54	68	109	271	5.1
Refined Petroleum & Coal	2	4	87	548	641	12.04
Chemicals and Chemical Products	33	91	75	239	438	8.2
Other (including Scrap)	2	5	-	-	7	0.2
Wholesale Trade (other than food)	1	-	-	1	2	-
Retail Trade (other than food)	4	48	-	109	161	3.0
Truckers' Freight	3	43	3	46	95	1.8
Forwarders' Freight	8	15	3	28	54	1.0
Steamship Lines' Freight	11	26	11	25	73	1.4
TOTAL	436	879	1588	2421	5323	100

TABLE B.6

OUTBOUND TRANSPORTATION COSTS BY TYPE OF GOODS
($ millions)

	Transborder				Domestic				
	Rail	Truck	Other	Total	Rail	Truck	Other	Total	Total
Agricultural Products	1	4	-	5	70	30	5	106	111
Forestry Resources	-	-	-	-	-	-	-	-	-
Mineral Resources and Mine Products	-	-	-	-	-	-	-	-	-
Crude Petroleum & Natural Gas	14	1	-	15	113	-	-	113	128
Food Products	14	29	5	48	78	122	8	208	256
Beverage Products	1	3	3	7	-	1	-	1	8
Tobacco Products	-	-	-	-	4	5	-	9	9
Rubber Products	-	-	-	-	2	-	-	2	2
Plastic Products	-	1	-	1	10	13	-	23	24
Furniture & Fixtures	-	-	-	-	3	1	-	3	4
Forest Products (incl. Pulp & Paper)	474	127	24	625	117	103	1	221	846
Primary Metals	136	17	1	155	122	66	1	189	344
Fabricated Metal	2	7	-	8	6	15	-	21	29
Machinery (except Electrical)	5	9	-	14	6	6	-	13	27
Transport Equipment	125	29	-	154	32	54	3	89	244
Electrical & Electronic Products	-	-	-	1	10	13	1	25	25
Non-Metallic Mineral Products	44	24	-	68	38	66	5	109	177
Refined Petroleum & Coal	84	3	-	87	206	313	29	548	635
Chemicals and Chemical Products	56	19	-	75	141	95	4	239	314
Other (including Scrap)	-	-	-	-	-	-	-	-	1
Wholesale Trade (other than food)	-	-	-	-	-	1	-	1	1
Retail Trade (other than food)	-	-	-	-	35	74	1	109	109
Truckers' Freight	-	3	-	3	5	41	-	46	49
Forwarders' Freight	1	2	-	3	18	4	5	28	31
Steamship Lines' Freight	9	2	-	11	22	3	-	25	36
TOTAL	1191	361	36	1588	1329	1028	64	2421	4009

TABLE B.7

INBOUND TRANSPORTATION COSTS BY TYPE OF GOODS
($millions)

	Transborder				Domestic				
	Rail	Truck	Other	Total	Rail	Truck	Other	Total	Total
Agricultural Products	9	17	2	28	21	56	21	98	126
Forestry Resources	–	–	–	1	25	46	1	72	72
Mineral Resources and Mine Products	84	10	27	121	151	25	10	186	307
Crude Petroleum & Natural Gas	2	1	0	4	9	5	68	82	86
Food Products	1	2	1	3	3	5	–	7	10
Beverage Products	–	–	–	–	–	–	–	–	–
Tobacco Products	–	–	–	–	–	–	–	–	–
Rubber Products	–	–	–	–	–	–	–	–	–
Plastic Products	–	–	–	–	–	–	–	–	–
Furniture & Fixtures	–	–	–	–	–	–	–	–	–
Forest Products (incl. Pulp & Paper)	3	2	–	5	33	13	–	46	51
Primary Metals	1	7	–	8	7	11	1	19	27
Fabricated Metal	3	11	–	14	3	8	–	11	26
Machinery (except Electrical)	–	5	1	6	5	22	2	29	35
Transport Equipment	70	63	6	139	16	24	–	40	179
Electrical & Electronic Products	–	3	–	4	–	2	–	2	6
Non-Metallic Mineral Products	27	13	–	40	23	31	–	54	94
Refined Petroleum & Coal	2	–	–	2	2	–	1	4	6
Chemicals and Chemical Products	16	9	8	33	57	33	1	91	124
Other (including Scrap)	1	2	–	2	3	2	–	5	7
Wholesale Trade (other than food)	–	1	–	1	–	–	–	–	1
Retail Trade (other than food)	1	2	–	4	26	21	1	48	52
Truckers' Freight	–	3	–	3	3	39	–	43	45
Forwarders' Freight	6	2	–	8	12	2	–	15	23
Steamship Lines' Freight	9	2	–	11	22	3	–	26	37
TOTAL	236	155	46	436	421	350	108	879	1315

TABLE B.8

INCIDENCE OF MEMBERSHIPS IN PRINCIPAL INDUSTRY ASSOCIATIONS

Industry Association	Number of Memberships	Percentage of Total Firms (282) in each Industry Association*
Canadian Manufacturers Association	146	52
Canadian Industrial Traffic League	107	40
Canadian Export Association	37	13
Council of Forest Industries of British Columbia	23	8
Canadian Pulp and Paper Association	22	8
Quebec Asbestos Mining Association	17	6
Propane Gas Association	11	4
Grocery Products Manufacturers Association	11	4
British Columbia Wholesale Lumber Association	11	4
Other Associations	170	-

* Example: 52% of surveyed firms are members of the CMA. Percentages do not add to 100 due to membership by many firms in more than one industry association.

APPENDIX C

SELECTED CHARACTERISTICS OF SURVEY RESPONDENTS FAVOURING ALKTERNATIVE APPROACHES ON COLLECTIVE VERSUS RAIWWAY RATE-MAKING AND AGREED CHARGES

TABLE C.1(a)

RATINGS* OF EFFECTS EXPERIENCED UNDER U.S. DEREGULATION BY RESPONDENTS FAVOURING THE VARIOUS OPTIONS ON COLLECTIVE VERSUS COMPETITIVE RATE-MAKING

	Rate Levels	Availability of Through Rates	Availability of Routing Alternatives	Availability of Equipment on Demand	Terms & Conditions of Carriage	Speed of Rail in Quoting Rates	Negotiating Time and Expense for Shippers	Innovation & Responsiveness to Shippers	Railway Efficiency and Productivity	Railway Liability	Shippers Competitive Position	Overall Rating
1. Maintain Status Quo on 279 and 32(2)	2.7	2.6	2.5	2.8	2.7	2.6	2.5	2.9	2.9	2.7	2.7	2.7
2. No Change to 279 and 32(2) to be Permissive	3.1	2.8	2.7	2.9	2.9	3.0	2.8	3.3	3.2	2.8	3.0	3.0
3. Limited Restrictions on Collective Ratemaking	2.8	2.7	2.5	2.9	2.8	2.9	2.6	3.1	3.0	2.7	2.9	2.8
4. Collective Action on Interline Rates; Subject to CRC	3.5	3.1	3.0	3.1	3.2	3.3	2.9	3.4	3.4	2.9	3.4	3.2
5. Collective Action on Interline Rates; Subject to Combines Act	3.5	3.1	3.0	3.1	3.2	3.3	3.0	3.4	3.4	3.0	3.5	3.2
6. Bilateral Collectivity with Guaranteed Independent Action	3.5	3.1	3.0	3.1	3.1	3.3	2.9	3.5	3.4	3.0	3.4	3.2
7. Joint Railway Consultation Only as Initiated by Shippers	3.4	3.1	3.0	3.1	3.1	3.2	3.0	3.4	3.4	3.0	3.5	3.2
8. Collective Ratemaking on Interline Rates; Railway Responsibilities as Status Quo	3.5	3.1	3.0	3.1	3.2	3.3	3.0	3.4	3.4	2.9	3.4	3.2
9. Free and Open Competition	3.6	3.2	3.2	3.3	3.2	3.4	3.1	3.7	3.7	3.1	3.9	3.4

* A rating of one means situation much worse and a rating of five means situation much improved.

TABLE C, 1(b)

RATINGS* OF EXPECTED EFFECTS OF DEREGULATION IN A CANADIAN SCENARIO BY RESPONDENTS FAVOURING THE VARIOUS OPTIONS ON COLLECTIVE VERSUS COMPETITIVE RATE-MAKING

	Rate Levels	Availability of Through Rates	Availability of Routing Alternatives	Availability of Equipment c.. Demand	Terms & Conditions of Carriage	Speed of Rail in Quoting Rates	Negotiating Time and Expense for Shippers	Innovation & Responsiveness to Shippers	Railway Efficiency and Productivity	Railway Liability	Shippers Competitive Position	Overall Rating
1. Maintain Status Quo on 279 and 32(2)	3.3	2.8	2.8	3.0	2.9	2.7	2.7	3.1	3.2	2.9	3.2	3.0
2. No Change to 279 and 32(2) to be Permissive	3.4	3.1	2.9	3.1	3.0	3.1	2.8	3.3	3.2	3.0	3.1	3.1
3. Limited Restrictions on Collective Ratemaking	3.2	2.9	2.8	3.0	3.0	2.9	2.7	3.3	3.1	2.9	2.9	3.0
4. Collective Action on Interline Rates; Subject to CTC	3.5	2.9	2.9	3.1	3.1	3.2	2.9	3.5	3.4	3.0	3.2	3.2
5. Collective Action on Interline Rates; Subject to Combines Act	3.5	3.0	2.9	3.1	3.1	3.3	2.9	3.5	3.4	3.0	3.2	3.2
6. Bilateral Collectivity with Guaranteed Independent Action	3.3	2.4	2.9	3.1	3.0	3.1	2.8	3.4	3.3	3.0	3.1	3.1
7. Joint Railway Consultation Only as Initiated by Shippers	3.4	3.0	2.9	3.0	3.0	3.1	2.8	3.4	3.3	3.0	3.1	3.1
8. Collective Ratemaking on Interline Rates; Railway Responsibilities as Status Quo	3.4	2.9	2.9	3.0	3.1	3.1	2.8	3.4	3.3	2.9	3.2	3.1
9. Free and Open Competition	3.5	2.9	2.8	3.2	3.2	3.3	2.9	3.6	3.3	2.9	3.1	3.2

* A rating of one means situation expected to deteriorate and a rating of five means situation expected to improve.

APPENDIX D

SURVEY OF RAILWAY USERS ON SECTION 279 OF THE RAIWAY ACT QUESTIONNAIRE AND EXPLANATORY MATERIAL SENT TO PARTICIPANTS

Consumer and Corporate Affairs Canada / Consommation et Corporations Canada

Hull (Québec)

Adresse postale:
Ottawa (Ontario)
K1A 0C9

Hull, Quebec

Mailing Address
Ottawa, Ontario
K1A 0C9

Le 21 octobre 1983

Monsieur/Madame,

Le gouvernement du Canada, de concert avec le secteur privé, effectue un sondage sur l'article 279 de la Loi sur les chemins de fer, lequel article prévoit que "les compagnies de chemins de fer doivent se communiquer les renseignements relatifs aux frais dont la communication peut être exigée en vertu de la présente loi; elles peuvent convenir d'instituer et percevoir des taux communs...". Des opinions très diverses ont été exprimées par les nombreuses parties concernées par la réglementation, ou la déréglementation, du secteur ferroviaire dans lequel les compagnies de chemins de fer pourraient établir les tarifs, soit collectivement, soit concurrentiellement.

En raison de la grande diversité d'opinions exprimées jusqu'à maintenant, Consommation et Corporations Canada a fait appel aux services d'E.M. LUDWICK & ASSOCIATES INC. pour effectuer un sondage auprès des

Dear Sir/Madam:

The Government of Canada in conjunction with the private sector is conducting a review of Section 279 of the Railway Act which permits Canada's railways to "...exchange such information with respect to costs as may be required under this Act and may agree upon and charge common rates...". Many diverse positions are held by various parties having an interest in the pros and cons of a regulated or deregulated railway transportation environment wherein collective or competitive rate-making by the railways would be allowed.

Because of the wide range of opinions put forth thus far, Consumer and Corporate Affairs Canada has engaged E.M. LUDWICK & ASSOCIATES INC. to conduct a survey of firms who use rail transportation services to

Canada

C&C
Canada

entreprises ayant recours au transport par chemin de fer; le sondage a pour objet de déterminer dans quelle mesure les usagers sont satisfaits des arrangements qui permettent actuellement aux compagnies de chemins de fer d'établir conjointement les tarifs et de recueillir leurs opinions sur les diverses solutions de rechange.

determine to what extent users are satisfied or not with current arrangements allowing railways to jointly set rates and to express their views on a variety of alternatives.

Vous trouverez ci-joint des extraits des lois pertinentes, une liste de définitions des différents types de tarifs ferroviaires, un résumé des positions des compagnies des chemins de fer et de leurs usagers sur les avantages relatifs de l'établissement collectif et concurrentiel des tarifs, ainsi qu'une copie du questionnaire. Nous vous prions d'étudier toute la documentation et de tenter de rassembler les renseignements d'ordre quantitatif qui sont demandés. Un sondeur professionnel d'E.M. LUDWICK & ASSOCIATES INC. communiquera avec vous dans quelques semaines afin de recueillir vos observations et vos réponses au questionnaire. Il n'y a donc pas lieu de retourner celui-ci par la poste.

Enclosed you will find quotations from pertinent portions of legislation, a list of definitions of different types of rail rates, summaries of railway and user positions on collective versus competitive rate-making, and a copy of the questionnaire. Please review all of the enclosed material and endeavour to locate the required numerical information. A professional interviewer from E.M. LUDWICK & ASSOCIATES INC. will contact you within the next few weeks to record your responses to the questionnaire. Do not return your questionnaire by mail; the interviewer will record your responses and comments.

Toutes vos réponses seront strictement confidentielles, et l'utilisation qui sera faite des résultats du sondage ne permettra nullement de reconnaître une entreprise donnée. Ceci dit, nous espérons que vous vous sentirez libre de vous exprimer aussi franchement que vous le voulez.

All responses will be held in strictest confidence by the consultant and survey results will be reported in a way that does not reveal the identity of any individual firm. In these circumstances, we hope you will feel free to express your views as candidly as you like.

Même si vous n'êtes pas tenu par la loi de participer au sondage, nous espérons que vous saisirez l'occasion qui vous est offerte de contribuer à l'élaboration de la politique et de la législation en matière d'établissement collectif des tarifs ferroviaires. Une copie du rapport qui sera rédigé à partir des résultats du sondage vous sera envoyée au moment de sa publication. Nous vous remercions à l'avance de votre collaboration, et c'est avec plaisir que nous prendrons connaissance de vos observations.

Bien à vous,

Although there is no legal requirement for your firm to participate in this survey, we hope you will take advantage of the opportunity to make an important contribution to the development of policy and legislation concerning collective railway pricing. A copy of the report drawn from the survey results will be provided to you when it is made publicly available. We thank you in advance for your co-operation and look foward to receiving your comments.

Yours very truly,

Lawson A.W. Hunter

Lawson A.W. Hunter
Sous-ministre adjoint/
Assistant Deputy Minister
Consommation et corporations Canada/
Consumer and Corporate Affairs Canada

p.j.

Encl.

SURVEY OF RAILWAY USERS

ON SECTION 279 OF THE RAILWAY ACT

SHIPPER QUESTIONNAIRE

This survey is being conducted on behalf of Consumer and Corporate Affairs Canada in order to solicit your views and experience relating to competition in the Canadian railway industry. Your firm and over 300 others have been selected at random to represent the views of your industry and/or region. The information provided by the various respondents during the course of this survey will be treated confidentially and will not be reported in any way that identifies any individual firm.

Please include all of your North American traffic including the continental portions of overseas shipments. Also include traffic which you ship FOB origin for which you pay the freight and are reimbursed by your consignees. Please express all funds in $ Canadian.

Please review the enclosed explanatory material before reviewing the questionnaire. An interviewer will call you shortly to record your responses to the questions. Please undertake to find the numerical information in Part I in advance. Thank you.

A. Please note those industry associations in which you firm is a member.

1. _____ Canadian Manufacturers Association
2. _____ Canadian Industrial Traffic League
3. _____ Canadian Export Association
4. _____ Canadian Federation of Independent Business
5. _____ Other (specify) _____.
6. _____ Other (specify) _____.
7. _____ Other (specify) _____.
8. _____ Other (specify) _____.

B. Would you like a copy of the final report?
_____Yes _____ No_____ # English_____# French

Treasury Board Rank of Information Tb/CT Res. 3506

I. TRAFFIC PATTERNS

Questions in Part I are aimed at determining the volume and nature of goods you ship or receive and your assignment of traffic to different modes and carriers.

1.(a) What are the principal goods your firm ships and receives within Canada and to and from U.S. points?

INBOUND: _____

OUTBOUND: _____

1.(b) In the 1982 calendar year, or your firm's fiscal year (your choice), what was the approximate range of your total gross revenues (sales)?

1) _____ less than $1 million
2) _____ 1 to 5 million
3) _____ 5 to 25 million
4) _____ 25 to 50 million
5) _____ 50 to 100 million
6) _____ 100 to 250 million
7) _____ 250 to 500 million
8) _____ 0.5 to 1.0 billion
9) _____ 1.0 to 2.5 billion
10) _____ 2.5 to 5.0 billion
11) _____ more than 5 billion

2. Over the same period, how much did your firm spend in Canadian dollars on inbound and outbound rail, truck including private fleet and other transportation of goods moving within Canada?

(a) Inbound	$ From U.S. Points	$ From Points in Canada
Rail		
Truck		
Other		
Total		

(b) Outbound	$ To U.S. Points	$ To Points in Canada
Rail		
Truck		
Other		
Total		

3. From which of the following regions of Canada does your firm ship its products. Please provide a percentage distribution.

_____% British Columbia
_____% Ontario
_____% Maritimes
_____% Prairies
_____% Quebec
Total= 100%

4.(a) How many shipping or receiving stations (i.e. plant/warehouse locations) does your firm have in Canada? _____

(b) How many of these points are situated on the tracks of each railway including public and private sidings?

1) _____ Joint CN/CP trackage
2) _____ CN only
3) _____ CP rail only
4) _____ Joint Access CN/CP through interswitching
5) _____ No rail access whatsoever.
6) _____ Other Canadian railway
7) _____ A U.S. railway
8) _____ Joint CN/other
9) _____ Joint CP/other

Total = answer to 4(a)

5. For approximately what percentage of your inbound and outbound traffic would you say that you had:

i) no viable alternative to rail transportation?
ii) economically viable access to more than one railway?

a) INBOUND	From U.S. points	From points in Canada
i) Captive to Rail	_____ %	_____ %
ii) Choice of Railways	_____ %	_____ %
b) OUTBOUND	**To U.S. points**	**To points in Canada**
i) Captive to Rail	_____ %	_____ %
ii) Choice of Railways	_____ %	_____ %

6. For approximately what percentage of your inbound and outbound rail shipments would you say that you had no viable alternative but to use CN Rail and its affiliated railroads or CP Rail and its affiliated railroads.

a) INBOUND	From U.S. points	From points in Canada
i) Captive to CN Rail	_____ %	_____ %
ii) Captive to CP Rail	_____ %	_____ %
b) OUTBOUND	**To U.S. points**	**To points in Canada**
i) Captive to CN Rail	_____ %	_____ %
ii) Captive to CP Rail	_____ %	_____ %

II. ISSUES IN RAILWAY RATE-MAKING

Part II of this questionnaire seeks your opinions and comments on various aspects of collective versus competitive rail rate making. The are no "right" or "wrong" answers; this is an opinion survey. You are reminded that your responses will be held in strict confidence and that the results will not be presented in any way which identifies any firm. In these circumstances, please feel free to be as frank and direct as you like.

7. In your opinion in which rate-making circumstances should the railways be allowed to confer (or exhange information, or price collectively) and in which of these cases should the railways be required to publish rates? (check those with which you agree).

a) For which of these should railways be allowed to confer?		b) For which of these should railways be required to publish tariffs?
_____	1)Class Rates	_____
_____	2)Local Commodity Rates	_____
_____	3)Competitive (Rail) Rates	_____
_____	4)Competitive (Other Mode) Rates	_____
_____	5)Agreed Charges	_____
_____	6)Special Arrangement Tariffs (e.g. Limited Freight Tariffs)	_____
_____	7)General Rate Surcharges	_____
_____	8)Intermodal Rates	_____
_____	9)Transborder Rates	_____
_____	10)Interline Through Rates	_____
_____	11)Combination Rates	_____
_____	12)No rates whatsoever	_____

c) Remarks: _____

_____

_____

8.(a) Is your firm a party to any Agreed Charge with a Canadian railway(s) filed with the Canadian Transport Commission?

_____ Yes _____ No

(b) What percentage of your domestic rail traffic (i.e., traffic originating in Canada) moves at rates published in Agreed Charge tariffs? _____ %

(c) Is your firm a party to any Contract with an American railway filed with the Interstate Commerce Commission for any of your transborder shipments?

_____ Yes _____ No

(d) What percentage of your transborder traffic moves at rates governed by contracts with U.S. railroads? _____%

(e) Which of the following two statements more closely reflects your views on agreed charge contracts: (check one)

_____ 1) The current practices of mandatory railway agreement, publication, and free shipper access to agreed charges should be continued.

_____ 2) Individual shippers and carriers should have the right to negotiate indepently exclusive and confidential terms in rate contracts.

9. Some Canadian shippers using rail services to ship and receive goods to and from the United States claim to have been positively or negatively affected by the rail deregulation measures introduced by the Staggers Act of 1980 and the 4R Act of 1976.

(a) If you are a transborder shipper what effect has U.S. rail deregulation had on your firm?

(b) If comparable legislation preventing railways from taking collective pricing action in Canada were implemented, what effects would you expect in relation to your domestic traffic?

Please rate each of the following impact areas or effects on a 1 to 5 basis with 1 meaning "situation much worse" and 5 meaning "situation much improved".

	a) Effects Experienced under U.S. Dereg.	b) Effects Expected from Comparable Canadian Legislation
1) Rate levels	_____	_____
2) Availability of through rates	_____	_____
3) Availability of routing alternatives	_____	_____
4) Availability of equipment on demand	_____	_____
5) Terms and conditions of carriage	_____	_____
6) Speed of railways in quoting rates	_____	_____

7) Negotiating time and expense for shippers	_____	_____
8) Railway innovation and responsiveness to individual shipper's needs	_____	_____
9) Railway effeciency and productivity	_____	_____
10) Extent of railway liability	_____	_____
11) Shipper's competitive position	_____	_____
12) Other_____	_____	_____

10. The view has been put forth that railways should be relieved of certain responsibilities in the event they are no longer permitted to collectively set rates. In a deregulated or competitive rate-making environment, should the railways ....?

Yes	No	
_____	_____	1) Publish rates
_____	_____	2) Submit to rate appeals under Section 23 of the National Transportation Act
_____	_____	3) Be obliged to carry all freight offered (common carrier obligation)
_____	_____	4) Account to a body such as the Canadian Transport Commission on any matter other than safety
_____	_____	5) Continue providing interswitching services within a four mile limit at no extra charge
_____	_____	6) Submit to rate prescriptions of CTC in cases of provenshipper captivity (278 of the Railway Act)
_____	_____	7) Other_____

11. The following statements reflect a number of views relative to the appropriate degree of railway competitiveness in Canada. Please note your degree of agreement with each statement by using a 1 to 5 rating with 1 meaning "strongly disagree" and 5 meaning "strongly agree".

_____ 1) Competition between railways acting independently is necessary to encourage innovation and efficiency leading to flexible and innovative service and pricing actions as well as research and development.

_____ 2) Competition between railways would negatively affect their commercial viability by reducing railway earnings and endangering the provision of adequate and efficiently supplied railway services.

_____ 3) Increased intra-modal railway competition would favour shippers located at competitive points while resulting in higher rates for rail dependent shippers at captive points.

_____ 4) Collective pricing serves carriers and shippers well, is beneficial for small shippers, and facilitates consideration of the reasonableness of rate relationships.

12. To what extent have you been experiencing competition or rivalry between modes and between railways for your traffic? Please rate your agreement or disgreement with the following statements on a 1 to 5 basis as in #11 above.

_____1) Canadian railways currently compete vigorously with each other for my traffic.

_____2) Canadian railways compete with each other much more today than they did five years ago.

_____3) Canadian railways currently compete vigorously with truckers for my traffic.

_____4) Canadian railways compete with truckers much more today than they did five years ago.

13. In your opinion, who is best able to protect shippers' interests with respect to railways. Provide each of the choices below with a 1 to 5 rating, assigning a 1 to those choices you consider "least able" and a 5 to those choices you consider "best able" to protect shippers' interests.

_____1) Canadian Transport Commission
_____2) Industry Associations
_____3) Individual Shippers Themselves
_____4) Director, Combines Act
_____5) Individual Railways
_____6) Freight CLubs or Freight Buying Groups
_____7) Provincial Government Agency

14. Based on your personal experience and beliefs, please evaluate, on a scale of 1 to 5 (1 = least desirable, 5 = most desirable), the following options or alternatives for ensuring adequate and appropriately priced rail freight services. Please refer to the attached explanatory material for quotations from legislation.

_____1) Maintain status quo on 279 and 32(2)
_____2) No amendment to 279, however 32(2) should be made permissive rather than compulsory.
_____3) Collective rate making may continue in all cases except express services and local commodity single line rates.
_____4) Implement new regulations pursuant to 279 allowing collective rate setting only on through interline (or joint) rates, and collective agreements on service standards and freight classification, all of which would be subject to CTC review and/or public inquiry.
_____5) Implement regulations as above with the provision of making all such agreements subject to the combines Act if found to prevent new sources of competition or designed to unduly lessen existing competitive alternatives.

_____6) That 279 and 32(2) be amended to allow for only collective arrangements explicitly called for by shipper (i.e. freight buying) groups and that the right of independent action for any railroad be guaranteed.

_____7) Section 32(2) should be made permissive and any joint railway consultations should be initiated by shippers except in the case of special arrangement tariffs and agreed charges.

_____8) Appropriate legislative amendments should be made to ensure that collective rate-making is allowed only in cases of joint, or interline, rates requiring the use of more than one carrier. Railways would continue to be responsible for publishing rates, section 23 NTA rate appeals, accountability to the CTC and other current responsibilities.

_____9) Appropriate legislative amendments creating a deregulated environment with railways relieved of their responsibilities for publishing rates, Section 23 NTA rate appeals, accountability to CTC, etc.

15. Were you familiar with most of the issues dealt with in the questionnaire and the attached explanatory material prior to having received it.

_____ Yes _____ Somewhat _____ No

16. Thank you for taking the time to complete this questionnaire. Please use the space to make any further comments on railway competition, regulation, collective pricing or general railway transportation matters of concern to you and your firm.

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SUMMARY OF THE POSITION OF SHIPPERS FAVOURING RETENTION OF LEGAL ARRANGEMENTS ALLOWING RAILWAYS TO MAKE RATES COLLECTIVELY

Shippers favouring the continuation of the status quo believe that present arrangements allowing Canadian railways to price their services in consultation with one another work very well and serve the mutual interests of shippers and railways. Proponents of this view submit that if legislative changes are made prohibiting collective rail pricing, railways should be relieved of certain responsibilities such as rate publication, interswitching, submitting to CTC hearings, orders and rate prescriptions, etc...Shippers in this category feel that permissive collective pricing should continue to be allowed for class rates, joint rates, local commodity rates, competitive rates, agreed charges, intermodal rates and rates for international or transborder traffic.

The view is held that the creation of a deregulated environment in which railways were required to price competitively (rather than collectively) would result in preferential rates for users in competitive locations at the expense of captive users which, being served by only one railroad, would have little or no bargaining power. Another concern relates to the protection of the right of a shipper of any size to take advantage of agreed charge rates usually negotiated between railways and large shippers. In a deregulated, competitive rate-making environment it is expected that the terms of agreed charge contracts would be held confidential and closed to the participation or even knowledge of parties outside the agreement. A final argument in favour of retaining current arrangements is that present rate determination/negotiation systems are simple, straighforward and cost-effective whereas a competitive environment would require major additional negotiating time and expense for traffic managers.

SUMMARY OF THE POSITION OF SHIPPERS OPPOSING COLLECTIVE PRICING BY RAILWAYS

Shippers opposing legal arrangements permitting railways to set rates collectively and favouring a competitive or "deregulated" environment consider that competition encourages innovation and efficiency and that the railway industry deserves no special exemption from laws governing competition which their clients are subject to. This stance is taken by some shippers which have experienced what they consider to be positive effects from the deregulated rail transportation environment in the U.S. Shippers in this category would propose that, local commodity rates, competitive rates, agreed charge rates, intermodal and international (or transborder) rates all be determined independently and competitively. With regard to joint rates, it is felt that consultations should be restricted to only those rail carriers actually participating in the movement.

Concerning potential negative effects of removing the railways' right to price collectively, shippers in this group do not feel that shippers at competitive points would benefit at the expense of captive shippers. Rather their experience in the U.S. market indicates to them that an advantage gained at a competitive point is generally extended to non-competitive points. Further, as regards to intermodal services, the introduction of competitive rail rate-making would be expected to result in new options for shippers at non-competitive points. Finally, shippers favouring a deregulated Canadian rail rate-making environment suggest that the special terms they could negotiate in confidential non-published railway contracts would improve their position relative to their American competitors.

The goals and objectives set forth in our National Transportation Policy seek to promote a healthy marketplace. The inherent advantage of the rail mode is derived from rate stability, predictability and reliability. These factors are dependent on the pricing environment which Section 279 makes possible. Rate levels are a function of the marketplace and not of the collective negotiation mechanism. Unlike rail transportation in the United States, there are only two major transcontinental railways in Canada. Therefore, it is unwise to analogize too closely the commercial and transport-competitive environment in both countries.

THE RAILWAY POSITION ON COLLECTIVE RATE-MAKING IN CANADA

The Canadian Railways are in favour of retaining the legal right to negotiate and set rates collectively with shippers, as we believe this is within the best interests of the Canadian Transportation Community.

Section 279 was incorporated into Canadian legislation as part of a package of amendments stemming from the recommendations of the McPherson Royal Commission. It must be seen in the context of all the changes which took place at that time - such as, for example, the amendment introducing the ability of shippers to appeal railway rate decisions under Section 23 of the National Transportation Act.

If there are to be changes to Section 279, then the railways would also want to have a re-evaluation of some of the other regulatory obligations, such as the Section 23 appeal, the obligation to publish and the common carrier obligation.

The present ability of the railways to maintain rate relationships with industry, such as rate groupings, gateway equalization and uniform regional scales, would automatically be eliminated if Section 279 were not available. There would also be substantial rate differentiation as between CN and CP, based on a distance from market, the size of individual shippers, and the inability of Canadian rail carriers to negotiate together on joint international through rates with shipper groups. It would not be too long before differences as between contiguous origin territories would arise, thereby causing distortions in the marketplace for Canadian producers.

The elimination of Section 279 would, for the rail companies, seriously hinder their ability to publish rates jointly, and the change to proportional rates would become inevitable.

How can it be expected that shipper groups would continue to meet together in the bargaining process if it were decided to disallow rail carriers this same opportunity.

In Canada, railway collective rate-making is not cartelism. Rather, it is a process of collective bargaining between carrier and shipper groups involving intra- and intermodal competitive forces and rivalry between alternative production and market sites and substitutable commodities. This bargaining process provides for an exchange of information between shippers and carriers in the pricing and sale of interline traffic on an all-inclusive basis.

DEFINITIONS OF RATE TYPES
(REFER TO QUESTION #7)

Class rates are designed to provide ceiling rates for all classes or groupings of articles or commodities moving between all points in Canada served by the railways.

Local commodity rates are negotiated rates, allowing the movement of a specific commodity between specific points at competitive rates for captive shippers having no alternative modes of transportation except one carrier.

Competitive rates are class or commodity rates designed by railways in recognition of competition from other modes of carriers.

Agreed charges are contractual rates between shippers and railways allowing the movement of specific commodities between specific points at reduced rates for guaranteed volumes. Under existing contractual arrangement, shippers not being party to original agreed charge negotiations are allowed to apply to participate.

Joint interline rates are published as a single through rate jointly by two or more interconnecting carriers involved in the interline movement.

Combination rates are a combination of two or more local rates covering interline movement.

Intermodal rates are rates for moving road transport trailers or containers on railway flat cars. Also known as rates for piggyback (TOFC & COFC).

General rate surcharges are supplementary charges added to the base rate. eg. fuel surcharge.

Transborder rates are designed in concurrence with domestic and foreign connecting carriers to provide international through rates.

Special arrangement tariffs are charges covering ancillary services such as switching, interswitching, terminal charges, transit arrangements, stop-off privileges, limited movements of freight (LFT), etc...

Exchange of information and common rates

279. Railway companies shall exchange such information with respect to costs as may be required under this Act and may agree upon and charge common rates under and in accordance with regulations or orders made by the Commission. 1988-87, c. 68, s. 52.

279. Les compagnies de chemin de fer doivent se communiquer les renseignements relatifs aux frais dont la communication peut être exigée en vertu de la présente loi; elles peuvent convenir d'instituer et percevoir des taux communs en vertu et en conformité des règlements ou des ordonnances de la Commission. 1988-87, c. 68, art. 52.

Échange de renseignements et taux communs

Tariffs to be filed and published

275. (1) Every freight tariff and every amendment of a freight tariff shall be filed and published, and notice of the issue thereof and of cancellation of any such tariff or any portion thereof shall be given in accordance with regulations, orders or directions made by the Commission.

275. (1) Tout tarif de marchandises et chaque modification d'un tarif de marchandises doivent être déposés et publiés, et un avis de leur émission et de l'annulation de tout semblable tarif ou partie de tarif doit être donné conformément aux règlements, ordres ou instructions édictés par la Commission.

Les tarifs doivent être déposés et publiés

Application to fix range for fixed rate

278. (1) A shipper of goods for which in respect of those goods there is no alternative, effective and competitive service by a common carrier other than a rail carrier or carriers or a combination of rail carriers may, if he is dissatisfied with the rate applicable to the carriage of those goods after negotiation with a rail carrier for an adjustment of the rate, apply to the Commission to have the probable range within which a fixed rate for the carriage of the goods would fall determined by the Commission; and the Commission shall inform the shipper of the range within which a fixed rate for the carriage of the goods would probably fall.

278. (1) Un expéditeur de marchandises pour lesquelles il n'existe pas d'autre service efficace et concurrentiel de transport en commun assuré autrement que par un ou plusieurs transporteurs par chemin de fer ou un ensemble de transporteurs par chemin de fer peut, s'il n'est pas satisfait du taux applicable au transport de ces marchandises après avoir négocié avec un transporteur par chemin de fer pour obtenir la modification de ce taux, demander à la Commission de déterminer quelles seraient les limites entre lesquelles se situerait probablement un taux fixé pour le transport de ces marchandises; et la Commission doit communiquer à l'expéditeur les limites entre lesquelles se situerait probablement un taux fixé pour le transport de ces marchandises.

Demande de détermination des limites des taux fixés

TRANSPORT ACT

Competing carriers

32 (2) No agreement for an agreed charge for the transport by rail from or to a competitive point, or between competitive points, on the lines of two or more carriers by rail shall be made unless the competing carriers by rail consent thereto in writing or join in making it.

Voituriers concurrents

32 (2) Nulle convention visant une taxe convenue pour le transport ferroviaire en provenance ou à destination d'un point de concurrence, ou entre des points de concurrence, sur les lignes de deux ou plusieurs voituriers par rail ne doit être conclue, sauf si les voituriers concurrents par rail y consentent par écrit ou s'unissent pour la conclure.

NATIONAL TRANSPORTATION ACT

Definitions

"carrier" "carrier" means any person engaged for hire or reward in transport, to which the legislative authority of the Parliament of Canada extends, by railway, water, aircraft, motor vehicle undertaking or commodity pipeline;

"public interest" "public interest" includes, without limiting the generality thereof, the public interest

Appeal against acts, omissions or rates

(2) Where a person has reason to believe

(a) that any act or omission of a carrier or of any two or more carriers, or

(b) that the effect of any rate established by a carrier or carriers pursuant to this Act or the *Railway Act* after the 19th day of September 1967,

may prejudicially affect the public interest in respect of tolls for, or conditions of, the carriage of traffic within, into or from Canada, such person may apply to the Commission for leave to appeal the act, omission or rate, and the Commission shall, if it is satisfied that a *prima facie* case has been made, make such investigation of the act, omission or rate and the effect thereof, as in its opinion is warranted.

Matters to be considered

(3) In conducting an investigation under this section, the Commission shall have regard to all considerations that appear to it to be relevant, including, without limiting the generality of the foregoing,

(a) whether the tolls or conditions specified for the carriage of traffic under the rate so established are such as to create

(i) an unfair disadvantage beyond any disadvantage that may be deemed to be inherent in the location or volume of the traffic, the scale of operation connected therewith or the type of traffic or service involved, or

(ii) an undue obstacle to the interchange of commodities between points in Canada or an unreasonable discouragement to the development of primary or secondary industries or to export trade in or from any region of Canada or to the movement of commodities through Canadian ports; or

Définitions

«intérêt public» "public interest"

«transporteur» ou «voiturier» "carrier"

22. (1) Au présent article

«intérêt public» comprend, sans restreindre sa portée générale, l'intérêt public décrit à l'article 3;

«transporteur» ou «voiturier» désigne toute personne qui entreprend, par location ou contre rétribution, des transports par chemin de fer, par eau, par aéronef, par entreprise de transport par véhicule à moteur ou par pipe-line pour denrées, lorsque ces transports relèvent de la compétence législative du Parlement du Canada.

Appel contre actes, omissions ou taux

(2) Lorsqu'une personne a lieu de croire

a) que toute action ou omission d'un transporteur ou de deux transporteurs ou plus, ou

b) que l'effet de l'établissement d'un taux par un ou plusieurs transporteurs en conformité de la présente loi ou de la *Loi sur les chemins de fer* après le 19 septembre 1967,

peut nuire à l'intérêt public en ce qui concerne les taxes ou les conditions du transport à l'intérieur, à destination ou en provenance du Canada, cette personne peut demander à la Commission l'autorisation d'interjeter appel de l'action, de l'omission ou du taux et la Commission, si elle est convaincue que la demande est, de prime abord, bien fondée, doit faire l'enquête qu'elle estime justifiée sur l'action, l'omission, le taux ou son effet.

Questions à considérer

(3) Lorsqu'elle fait une enquête en vertu du présent article, la Commission doit tenir compte de tous les facteurs qui lui semblent pertinents et notamment, sans limiter la portée générale de ce qui précède, voir

a) si les taxes ou conditions spécifiées pour le transport de marchandises au taux ainsi établi sont telles qu'elles entraînent

(i) un désavantage injuste excédant celui qui peut être considéré comme inhérent au lieu ou au volume du trafic, à l'échelle des opérations y afférentes ou au genre de trafic ou de service en question, ou

(ii) un obstacle excessif à l'échange des denrées entre des points au Canada ou un découragement déraisonnable du développement des industries primaires ou secondaires ou du commerce d'exportation dans toute région du Canada ou en provenant, ou du mouvement de denrées passant par des ports canadiens;

(ii) whether control by, or the interests of a carrier in, another form of transportation service, or control of a carrier by, or the interest in the carrier of, a company or person engaged in another form of transportation service may be involved.

ii) si le contrôle par un autre genre de service de transport, ou si les intérêts détenus par un transporteur dans un autre genre de service de transport, ou si le contrôle d'un transporteur par une compagnie ou une personne qui exploite un autre genre de service de transport ou si les intérêts détenus par ces dernières dans l'entreprise d'un transporteur, peuvent être en cause.

Directing order

(4) *If* the Commission, after a hearing, finds that the act, omission or rate in respect of which the appeal is made is prejudicial to the public interest, the Commission may, notwithstanding the fixing of any rate pursuant to section 276 of the *Railway Act* but having regard to sections 276 and 277 of that Act, make an order requiring the carrier to remove the prejudicial feature in the relevant tolls or conditions specified for the carriage of traffic or such other order as in the circumstances it may consider proper, or it may report thereon to the Governor in Council for any action that is considered appropriate. 1966-67, c. 69, s. 16.

(4) Si la Commission, après une audition, conclut que l'action, l'omission ou le taux qui fait l'objet de l'appel nuit à l'intérêt public, elle peut, nonobstant la fixation d'un taux en conformité de l'article 276 de la *Loi sur les chemins de fer* mais en tenant compte des articles 276 et 277 de ladite loi, rendre une ordonnance commandant le transporteur de supprimer la cause du préjudice dans les taxes ou conditions pertinentes spécifiées pour le transport ou telle autre ordonnance qu'elle considère convenir aux circonstances ou elle peut faire un rapport à ce sujet au gouverneur en conseil aux fins de faire prendre toute mesure jugée appropriée. 1966-67, c. 69, art. 16.

Ordonnance directrice

COMBINES INVESTIGATION ACT

OFFENCES IN RELATION TO COMPETITION [1974-75-76, c. 76, s. 13]

Conspiracy

32. (1) Every one who conspires, combines, agrees or arranges with another person

(a) to limit unduly the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any product,

(b) to prevent, limit or lessen, unduly, the manufacture or production of a product, or to enhance unreasonably the price thereof,

(c) to prevent, or lessen, unduly, competition in the production, manufacture, purchase, barter, sale, storage, rental, transportation or supply of a product, or in the price of insurance upon persons or property, or

(d) to otherwise restrain or injure competition unduly,

is guilty of an indictable offence and is liable to imprisonment for five years or a fine of one million dollars or to both.

INFRACTIONS RELATIVES À LA CONCURRENCE [1974-75-76, c. 76, art. 13]

Complot

32. (1) Est coupable d'un acte criminel et passible d'un emprisonnement de cinq ans ou d'une amende d'un million de dollars, ou de l'une et l'autre peine, toute personne qui complote, se coalise, se concerte ou s'entend avec une autre

a) pour limiter indûment les facilités de transport, de production, de fabrication, de fourniture, d'emmagasinage ou de négoce d'un produit quelconque;

b) pour empêcher, limiter ou diminuer, indûment, la fabrication ou production d'un produit ou pour en élever déraisonnablement le prix;

c) pour empêcher ou diminuer, indûment, la concurrence dans la production, la fabrication, l'achat, le troc, la vente, l'entreposage, la location, le transport ou la fourniture d'un produit, ou dans le prix d'assurances sur les personnes ou les biens; ou

d) pour restreindre ou compromettre, indûment de quelque autre façon, la concurrence.

Idem

(1.1) For greater certainty, in establishing that a conspiracy, combination, agreement or arrangement is in violation of subsection (1), it shall not be necessary to prove that the conspiracy, combination, agreement or arrangement, if carried into effect, would or would be likely to eliminate, completely or virtually, competition in the market to which it relates or that it was the object of any or all of the parties thereto to eliminate, completely or virtually, competition in that market.

Idem

(1.1) Pour plus de certitude, il n'est pas nécessaire, pour établir qu'un complot, une association d'intérêts, un accord ou un arrangement contrevient au paragraphe (1), de prouver que le complot, l'association d'intérêts, l'accord ou l'arrangement, s'ils étaient entrés, éliminerait ou seraient susceptibles d'éliminer la concurrence, entièrement ou à toutes fins utiles, sur le marché auquel ils se rapportent, ni que les participants ou l'un ou plusieurs d'entre eux, visaient à éliminer la concurrence, entièrement ou à toutes fins utiles, sur ce marché.

Defence

(2) Subject to subsection (3), in a prosecution under subsection (1), the court shall not convict the accused if the conspiracy, combination, agreement or arrangement relates only to one or more of the following:

(a) the exchange of statistics,

(b) the defining of product standards,

(c) the exchange of credit information,

(d) the definition of terminology used in a trade, industry or profession,

(e) cooperation in research and development,

(f) the restriction of advertising or promotion, other than a discriminatory restriction directed against a member of the mass media,

(g) the sizes or shapes of the containers in which an article is packaged,

(h) the adoption of the metric system of weights and measures, or

(i) measures to protect the environment.

Défense

(2) Sous réserve du paragraphe (3), dans des poursuites prévues au paragraphe (1), la cour ne doit pas déclarer l'accusé coupable si le complot, l'association d'intérêts, l'accord ou l'arrangement se rattache exclusivement à l'un ou plusieurs des actes suivants:

a) l'échange de données statistiques,

b) la définition de normes de produits,

c) l'échange de renseignements sur le crédit,

d) la définition de termes utilisés dans un commerce, une industrie ou une profession,

e) la collaboration en matière de recherches et de mise en valeur,

f) la restriction de la réclame ou de la promotion, à l'exclusion d'une restriction discriminatoire visant un représentant des media,

g) la taille ou la forme des emballages d'un article,

h) l'adoption du système métrique pour les poids et mesures, ou

i) les mesures visant à protéger l'environnement.

Exception

(3) Subsection (2) does not apply if the conspiracy, combination, agreement or arrangement has lessened or is likely to lessen competition unduly in respect of one of the following:

(a) prices,

(b) quantity or quality of production,

(c) markets or customers, or

(d) channels or methods of distribution,

or if the conspiracy, combination, agreement or arrangement has restricted or is likely to restrict any person from entering into or expanding a business in a trade, industry or profession.

Exception

(3) Le paragraphe (2) ne s'applique pas si le complot, l'association d'intérêts, l'accord ou l'arrangement a réduit ou semble devoir réduire indûment la concurrence à l'égard de l'un des sujets suivants:

a) les prix,

b) la quantité ou la qualité de la production,

c) les marchés ou les clients, ou

d) les voies ou les méthodes de distribution,

ou si le complot, l'association d'intérêts, l'accord ou l'arrangement a restreint ou semble devoir restreindre les possibilités pour une personne d'entrer dans un commerce, une industrie ou une profession ou d'accroître une entreprise commerciale, industrielle ou professionnelle.

Defence

(4) Subject to subsection (5), in a prosecution under subsection (1) the court shall not convict the accused if the conspiracy, combination, agreement or arrangement relates only to the export of products from Canada.

Exception

(5) Subsection (4) does not apply if the conspiracy, combination, agreement or arrangement

(a) has resulted or is likely to result in a reduction or limitation of the volume of exports of a product;

(b) has restrained or injured or is likely to restrain or injure the export business of any domestic competitor who is not a party to the conspiracy, combination, agreement or arrangement;

(c) has restricted or is likely to restrict any person from entering into the business of exporting products from Canada; or

(d) has lessened or is likely to lessen competition unduly in relation to a product in the domestic market.

Defence

(6) In a prosecution under subsection (1), the court shall not convict the accused if it finds that the conspiracy, combination, agreement or arrangement relates only to a service and to standards of competence and integrity that are reasonably necessary for the protection of the public

(a) in the practice of a trade or profession relating to such service; or

(b) in the collection and dissemination of information relating to such service.

Exception

(7) Subsection (1) does not apply in respect of a conspiracy, combination, agreement or arrangement that is entered into only by companies each of which is, in respect of every one of the others, an affiliate as that relationship is defined in subsections 39(7) and (7.1). R.S., c. C-23, s. 32; 1974-75-76, c. 76, s. 14.

(4) Sous réserve du paragraphe (5), dans des poursuites intentées en vertu du paragraphe (1), la cour ne peut pas déclarer l'accusé coupable si le complot, l'association d'intérêts, l'accord ou l'arrangement se rattache seulement à l'exportation de produits du Canada.

Défense

Exception

(5) Le paragraphe (4) ne s'applique pas si le complot, l'association d'intérêts, l'accord ou l'arrangement

a) a eu pour résultat ou semble devoir avoir pour résultat une réduction ou une limitation du volume des exportations d'un produit;

b) a restreint ou affaibli ou semble devoir restreindre ou affaiblir le commerce d'exportation de tout concurrent au pays qui n'est pas partie au complot, à l'association d'intérêts, à l'accord ou à l'arrangement;

c) a restreint ou semble devoir restreindre les possibilités pour une personne d'entrer dans le commerce d'exportation de produits du Canada; ou

d) a réduit ou semble devoir réduire indûment la concurrence relativement à un produit sur le marché intérieur.

Moyens de défense

(6) Dans les poursuites intentées en vertu du paragraphe (1), la cour ne doit pas déclarer l'accusé coupable si elle conclut que le complot, l'association d'intérêts, l'accord ou l'arrangement porte uniquement sur un service et sur des normes de compétence et des critères d'intégrité raisonnablement nécessaires à la protection du public

a) dans l'exploitation d'un commerce ou l'exercice d'une profession rattachés à ce service, ou

b) dans la collecte et la diffusion de l'information se rapportant à ce service.

Exception

(7) Le paragraphe (1) ne s'applique pas à un complot, une association d'intérêts, un accord ou un arrangement intervenu uniquement entre des compagnies toutes affiliées les unes aux autres au sens des paragraphes 39(7) et (7.1). S.R., c. C-23, art. 32; 1974-75-76, c. 76, art. 14.

POOR

QUALITY

ORIGINAL